

THE UNIVERSITY OF CHICAGO

COUNTY GOVERNMENT

IN

TENNESSEE

*A DISSERTATION SUBMITTED TO THE GRADUATE
FACULTY IN CANDIDACY FOR THE DEGREE
OF DOCTOR OF PHILOSOPHY*

DEPARTMENT OF POLITICAL SCIENCE

BY
CARLTON C. SIMS

Private Edition, Distributed by
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CHICAGO, ILLINOIS

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PREFACE

Until the latter part of the nineteenth century political scientists did not deign to waste their time on such insignificant problems as those affecting the subordinate political divisions of the State. While they were glorifying sovereignty and theorizing upon a number of other ethereal subjects, the rise of the modern city was creating problems of so serious a nature as to demand immediate attention. Some of the political scientists were inclined to leave such problems to the politician for fear that they might be contaminated by too close a contact with the real thing. Others, however, in a true Machiavellian spirit attacked the problem, but even then, for a time, the poor county was neglected. Such an interesting and, in many respects, amusing area could not, however, forever remain undiscovered, and such terms as "ramshackle county government" and the "dark continent" eventually made their appearance. During the last twenty years a large number of books and magazine articles dealing with the county have been published. This agitation seems to be on the verge of bearing fruit. The National Municipal Review in a recent issue has published a model county manager law prepared by a special committee of the National Municipal League. Virginia and North Carolina are both experimenting with types of the county manager, while reports from the west indicate considerable interest in that section. There is, however, a counter movement which practically calls for the abolition of the county and the substitution of state administrative regions. Nevertheless, the general impression is that the county will be with us for some time to come.

The writer teaches History and Political Science in the State Teachers College located at Murfreesboro, Tennessee. Naturally he is thrown in contact with the high schools of the state and has a chance to evaluate their teaching. For some years he has been dissatisfied with the type of teaching done in these schools. Often it takes one or two quarters at the Teachers College for a pupil to "unlearn" what he has been taught in history and civics, and in many cases it is a debatable question whether a student has gained or lost by his high school courses in the social studies.

With this in mind, the writer, a few years ago, by way of experimentation, organized the second term of a course in American Government around a series of problems. The county was one of the problems chosen for study, three weeks were devoted to it, and each student was required to make a study of his own county. County politicians were interviewed and scandals investigated. An attempt was made to get into the actual workings of the system. The students made progress reports from time to time and prepared a term paper on the evils of county government and made recommendations for improvement. Some of the material collected by the class was of such an interesting nature that the writer decided to carry out further investigation. This study on county government in the following pages is the result.

The first three chapters are of an introductory nature. Chapter I gives a brief picture of the development of county government from the thirteenth century in England to the present. Chapter II describes the present system in Tennessee and Chapter III outlines the relation of the county to the state. These chapters follow conventional lines and are naturally more or less

dry and uninteresting, though Chapter III has parts that might not be so classed. The remainder of the study is less formal and more stimulating. Chapter IV describes the county court in action. Chapter V deals with county finances and is in some respects a continuation of Chapter IV since the county court controls finances. Chapter VI treats of certain elective officials whose duties are chiefly clerical. These chapters attempt to give a realistic picture of the system in operation.

In the next chapter the cost and efficiency of certain phases of county government are discussed. Rutherford County, which ranks approximately tenth in the ninety-five counties of the state, is compared with seven sub-median counties in one of the poor sections of the state. Consolidation both of offices and of areas is suggested.

Chapter VIII outlines a plan for a rearrangement of counties, the number being reduced to thirteen. In Chapter IX an attempt is made to gauge public opinion towards the county. The last chapter is devoted to a brief summary.

The writer has relied upon various sources. Statutes and reports of the state departments have been frequently used. Considerable use was made of the questionnaire, while the personal interview was often called into play. Probably three hundred people were interviewed. In certain cases a record of this interview was made, while in other cases the purpose of the interview was merely to get the flavor of the situation. Stenographic copies of two meetings of the county court of Rutherford County were obtained.

It is hoped that this study will help to create an interest in county problems in Tennessee, and that improvements will be made in the near future.

The writer is indebted to Professor Philip Mankin of the Middle Tennessee State Teachers College for reading part of the manuscript; to Mr. John Wiseman, attorney for Rutherford County for a number of valuable interviews; and to the many county officials in Tennessee, who by their cooperation made this work possible. Part of Chapter IX was suggested by one of Professor Harold D. Laswell's courses at the University of Chicago. Most of all, the writer is indebted to Professor Leonard D. White and Professor Charles E. Merriam of the University of Chicago under whose supervision this study was executed. Any errors of fact, and the conclusions, are the responsibility of the writer.

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CHAPTER I

ORIGIN AND DEVELOPMENT

No doubt everyone familiar with the present system of county government in Tennessee wonders at times just how the system came about. Where did it originate? What were the steps in its development? Why has it changed so little in the last century? Why is it different from business administration? These and many other such questions might be asked. A brief outline of the origin and development of the county will help to answer these questions and will throw light upon attempts to work out a solution for the present evils. No attempt will be made to give a complete history. Such a study would of itself constitute a dissertation of considerable importance. Only enough will be given to show how slowly the political mill wheels grind. The chapter is organized around three periods: (a) English County Government to 1663; (b) County Government in Colonial North Carolina, 1663-1777; (c) The Tennessee County, 1777-1930.

THE ENGLISH COUNTY TO 1663

The roots of county government in England go back of Magna Carta and even into the Anglo-Saxon period. For our purposes, however, it will not be necessary to go back of the thirteenth century.

The Justice of the Peace.- The justice of the peace has always been associated with the county. Originally his duties were primarily judicial but as time went on administrative duties were added. A few of the

more important early statutes dealing with this office will be briefly referred to.

The office was first created by Edward III in 1327 by a statute which provided that "for the better keeping and maintenance of the peace, the King will, that in every county good men and lawful, which be in the county, shall be assigned to keep the peace."¹ The act further stated that the justices, along with others wise and learned in the law, should hear and determine felonies and trespasses and inflict punishment. Six years later they were required to hold sessions four times a year and at other times when there was need, at the discretion of the justices.² These identical provisions apply to the present Tennessee quarterly court. In 1360 they were given jurisdiction over "offenders, rioters, barrators, and vagabonds," and power to "arrest and imprison and require security for good behavior," and authority to "hear and determine felonies and trespass."³ This act also gave the justices power to "inquire of measures and also of weights," a power still exercised by the county court in Tennessee.⁴

The break-up of the feudal system, which was hastened by the Black Death, was responsible for much legislation regulating laborers and unemployed. In 1388 justices of the peace were required to inquire if "mayors, bailiffs, stewards, constables, and goalers have duly done execution of said ordinances of servants and laborers, beggars and vagabonds." The provision for holding one session every quarter was repeated,

¹ Edw. III, Stat. 2, c. 16.

² Edw. III, Stat. 2, c. 7.

³ Edw. III, c. 1, 5.

⁴ Tennessee Code (1918), sec. 309a6-7.

indicating that the justices were negligent of duty. Fees were fixed at four shillings a day for holding quarter sessions.¹ This is comparable to the \$1.50 a day that the Tennessee justice receives for holding quarterly court.

Apparently the justices declined in quality, another reminder of Tennessee, for in 1389 a statute required that "justices of the peace shall be made of new in all counties of England of the most sufficient knights, esquires, and gentleman of the law of the said counties." They were required to be "sworn duly without favor to keep and put in execution all statutes and ordinances touching this office." This same statute conferred upon the justices in quarter session the important power of assessing rates for artificers and laborers and of regulating prices for the purpose of limiting profiteering in foods.² An act of 1439 recites abuses and oppression due to unqualified justices and fixes their qualifications at 20 pounds a year in land. Exceptions were made in case of cities, towns and burroughs, and in counties where there was not a sufficient number of qualified persons.³ In 1488 a statute recites that "abuses exist in every shire" and that "crimes are increasing" and the justices of the peace are "negligent."⁴

Another important power was given to the justices in 1530 which they still exercise today in Tennessee, namely, supervision over highway bridges. They were authorized to levy a tax for this purpose, to

¹12 Rich. II, c. 10

²13 Rich. II, Stat. 1, c. 7, 8.

³18 Hen. VI, c. 11.

⁴4 Hen. VII, c. 12.

appoint a collector and a surveyor, and to require reports and settlements from each.¹

In 1541 a statute read in part as follows, "and for the better pcedinge therein (justices) shall devyde and sever themselves lymittinge and assigninge always the number of two of them at the least or more into hundreds" and other districts. The two justices were given power to inquire, hear and determine on all offenses, to issue process against offenders, to give judgment and execution, and to correct the panel of juries. This is the forerunner of the single justice holding court for his civil district.²

The Sheriff.— This officer antedates the justice of the peace. Originally he was the agent of the King and held court, but in 1297 he was prohibited from holding pleas of the crown.³ The rise of the justice of the peace in the next century further reduced his authority. By 1275 his duties resembled in many ways those of the Tennessee sheriff of today. According to the First Statute of Westminster he had authority in securing wrecks, making arrests, bailing offenders and in replevins, and he received the King's revenue. Provision was made for his removal for certain unlawful acts and the present notorious deputy sheriff is referred to as the under-sheriff.⁴ In the Second Statute of Westminster his authority to summon jurors and to execute and return writs is referred to as are certain of his fees.⁵

During the early part of the fourteenth century the sheriff was accused of being unqualified and of

¹22 Hen. VIII, c. 5.

²33 Hen. VIII, c. 10.

³25 Edw. I Magna Carta, c. 17.

⁴3 Edw. I, cc. 4, 9, 15, 17, 19.

⁵13 Edw. I, cc. 25, 38, 39.

oppressing the people. He apparently was giving the King trouble also. Various attempts were made to control him more adequately. In 1300 power was, for a short time, given to the people to elect their sheriff. The qualifications set up by law are interesting. He was not to be one who lodged "too often in one place, nor with poor persons, or men of religion."¹ In 1311 his appointment was placed in the hands of the Chancellor, Treasurer, and others of the Council.²

In 1340 the term of office of the sheriff was limited to one year.³ This one year provision was repeated in 1354 and again in 1368, the act of the latter year applying to deputies and to sheriffs' clerks.⁴ In 1377 an act was passed stating that "none that have been sheriff of any county by an whole year, shall be within the three years next ensuing chosen again or put in the same office of sheriff."⁵ The idea that some restrictions should be placed upon the sheriff as successor to himself still obtains in Tennessee today, the present Constitution stating that "no person shall be eligible to the office of sheriff more than six years in any term of eight years."⁶

Other Early County Officers.— The coroner, like the sheriff, is an officer of early origin. The First Statute of Westminster recites that in future they be "most wise and discreet knights" and that they take no

¹28 Edw. I, Artic. sup. Cant. cc. 8, 13.

²5 Edw. II, Ord. c. 17.

³14 Edw. III, Stat. 1, c. 7.

⁴28 Edw. III, c. 7; 42 Edw. III, c. 9.

⁵1 Rich. II, c. II.

⁶Art. 7, sec. 1.

fees.¹ The following year an act was passed dealing exclusively with the office of coroner.² His chief duty was to hold inquests but he was not limited to inquests over dead bodies as is the Tennessee coroner, his powers extending to rape cases, burglary, and such matters as found treasure and wrecks at sea.

In the thirteenth century the constable was an officer for a subdivision of a shire or county. In 1285 two were appointed for each hundred and franchise "to make a view" of armor.³ Today he is elected by civil districts.

There was no register in England prior to the eighteenth century such as exists today in Tennessee. Registration of instruments probably originated in the Colonies. The first law in England regulating this subject was enacted in 1708 and applied to Middlesex County only. Fees were fixed by law according to the length of the instrument to be registered, a practice which still exists in Tennessee.⁴

Clerks of the courts were created at an early date, the Second Statute of Westminster stating that all justices of the bench shall have clerks to enroll all pleas.⁵

By 1663 one is able to discern clearly in England the framework of the present Tennessee county. There are the justices of the peace meeting in quarterly session for the county and in pairs for smaller areas. Their duties are judicial and administrative.

¹ 13 Edw. I, c. 10.

² 4 Edw. I, Offic. Coronatoris.

³ 13 Edw. I, Stat. Wynton, c. 6.

⁴ 7 Anne, c. 20.

⁵ 13 Edw. I, c. 30.

They act as guardians of the peace, try cases both civil and criminal, regulate wages, limit food prices, inquire as to weights and measures, have authority to levy taxes for the repair of highway bridges, administer the poor laws, and appoint certain officers and require reports and settlements of them. The sheriff and the coroner are important officials with duties resembling those of these officers today, though both have declined in importance. One also notes the constable, an officer for an area less than a county, and the clerks of the courts. The fee system was thoroughly established and centralized supervision over local government had become a problem.

COUNTY GOVERNMENT IN COLONIAL NORTH CAROLINA, 1663-1777

The Proprietors of Carolina naturally looked to Great Britain for institutions for their newly acquired possessions. The transfer of these institutions, however, was gradual and modifications had to be made to suit new conditions. It is not clear just what took place for the first fifty years. Therefore, the next few paragraphs, dealing with the years before 1715, fall far short of a complete picture.

The Lords Proprietors in their Concessions and Agreements¹ of 1665 outlined the framework of a government for Carolina. Apparently they intended to create a number of separate governments independent of each

¹Thorpe, American Charters, Constitutions, and Organic Law, 1492-1908 (Washington, Government Printing Office, 1909), vol. 5, p. 2756.

other under the name of counties. Reference is made to a "Governor for each County." A "chief Register or Secretary" and a Surveyor, chosen by the Governor in case the Proprietors fail to act, are mentioned. All officers were to hold at the pleasure of the Proprietors or the governor and council. The assemblies were given power to constitute all courts for their respective counties, and to regulate the number of officers as well as their salaries and fees. They were also given the authority to divide the counties into "hundreds, parishes, tribes" or such other divisions as they thought fit. The governors, with the consent of their councils, were required to "nominate and commission... the several Judges,... and all other officers as Justices, Coroners &c..."

John Locke in his fundamental Constitutions of Carolina, 1669, made provision that "in every county there shall be a court, consisting of a sheriff and four justices of the county, for each precinct." Precinct courts were also to be established consisting of a steward and four justices of the precinct. He further provided for "a registry in every precinct, where shall be enrolled all deeds, leases, judgments, mortgages and other conveyances."¹

The extent to which the provisions of these documents were put into operation is a question, but from the very start one finds counties divided into precincts. It is really these precincts that developed into modern counties. In 1738 an act was passed which changed precincts of the province into counties.² The new counties retained the old precinct names.

¹Ibid., pp. 2779-2782.

²Walter Clark, State Records of North Carolina (Nash, Goldsboro, 1906), vol. 23, p. 122.

By 1715 the process of transplanting had been completed and the North Carolina county bore a striking resemblance to its English model. In that year an act entitled "An act for the trial of small and mean causes" authorized one justice of the peace to try cases involving sums under 20 shillings, and two justices, sitting together, to try cases involving amounts of less than 40 shillings.¹ Precinct courts were given authority to regulate roads, bridges, and ferries. They were further authorized to appoint a jury of twelve to lay out new roads, all damages resulting therefrom to be paid by levies made and collected by the surveyor on the "tithables" who ought to work the road. This is one of the first instances of local taxation in the colony, being preceded only by the right given to church wardens in 1711 to levy a poll tax "not to exceed five shillings in currency to maintain the poor and pay preachers."²

The precinct courts were further authorized by a series of acts during the year 1715 to make regulations concerning the location of mills, to hear wills proved and to grant orders for administration, and to exercise jurisdiction over orphans. They were also given the right to appoint as many constables as necessary for their precincts. In 1720 they were given the right to regulate the prices charged by innkeepers for liquor, food and lodging. In 1722 the powers of the local authority in taxation were further extended by allowing the justices of the peace, or a greater part of them, to acquire land on which to build a courthouse, and to levy a poll tax not to exceed five

¹Clark, op. cit., vol. 23, pp. 27-28.

²W. L. Sanders, op. cit., vol. 1, p. 829.

shillings for the expenses incident thereto. In 1746 justices of the peace were given all the powers of the justices in England "without as well as within their quarter sessions."¹

The year 1715 saw much legislation concerning other county officers. The constables were required to keep the peace and to make arrests, and were invested with all powers of constables in England. Coroners were likewise given the same powers as the English coroner, and were appointed by the governor. The register, appointed by the governor from three men selected by the people of the precinct, was required to register births, burials, marriages, and all conveyances. Other officers referred to are the surveyor of roads appointed by precinct courts, the precinct treasurer, the precinct clerk, and the keeper of standards.²

The sheriff deserves special comment. His duties, prior to 1738, were assigned to a provost marshal for each county with deputies for the precincts. Fees were allowed in a wide variety of cases including arrests, whippings, serving subpoenas, attachments, and serving executions. In 1738, when the precincts were changed into counties, the office of provost marshal was abolished and a sheriff for each county, chosen by the governor from three candidates nominated by the county court, was appointed instead.³

Certain provisions regulating county government unfortunately were written into the North Carolina Constitution of 1776. Section thirty-three states that

¹Clark, op. cit., vol. 23, pp. 48, 67, 70, 15, 100 et seq., 263; vol. 25, p. 169

²Ibid., pp. 14-15, 47-50, 72, 91.

³Ibid., pp. 16, 83, 122.

"the justices of the peace within their respective counties in this state shall in future be recommended to the Governor for the time being, by the representatives in the General Assembly, and the Governor shall commission them accordingly. And the justices when so commissioned shall hold their office during good behavior and shall not be removed from office by the General Assembly unless for misbehavior, absence, or inability." Section thirty-eight states that "there shall be a sheriff, coroner, or coroners, and constables in each county within the state."¹

THE TENNESSEE COUNTY, 1777-1930

An important act of the North Carolina legislature of 1777 established a government in what is now East Tennessee and provided for "erecting county courts and sessions of the peace," and for "appointing and commissioning justices of the peace and sheriffs in and for the several counties and the district of Washington within this state and for other purposes therein mentioned."² This act established the North Carolina type of government in Tennessee and is generally considered as the beginning of the legal history of the latter state.

Ramsay, in his *Annals of Tennessee*, describes some of the meetings of the early court in the state. At the meeting of the Washington County court February 23, 1778, twenty-three members were recorded as being present. The following day the court chose a clerk, sheriff, surveyor, entry taker, register, stray master and coroner. Cases both civil and criminal were then

¹Thorpe, *op. cit.*, p. 2793.

²Clark, *op. cit.*, vol. 23, p. 39 et seq.

heard.¹ At the first meeting of the Davidson County court (Nashville) October 6, 1783, four of the eight commissioned justices were present. They elected a clerk and a sheriff. On the following day, the sheriff not being able to give security "gave up," and another was appointed in his place. Other officers appointed were an entry taker, a register, and "constables in the several stations." The court then decided upon the location of a courthouse and a prison, ordered the laying out of a road from Nashville to Mansco's Station and gave a permit for the building of a grist mill. After the appointment of grand jurors the court adjourned to the first Monday in January. At the January meeting certain military officers were sworn and a surveyor was appointed.

The Tennessee Constitution of 1796 outlined the general organization of the government of the county. Article V, section 2, stated that "the General Assembly shall, by joint ballot of both Houses appoint judges of the several courts of law and equity." Section 10 provided that "each court shall appoint its own Clerk, who shall hold his office during good behavior." Section 12 reads as follows: "There shall be Justices of the Peace appointed for each county, not exceeding two for each captain's company, except for the company which includes the county town, which shall not exceed three, who shall hold their offices during good behavior." Article VI, section 1 provided that "there shall be appointed in each county, by the County Court, one Sheriff, one Coroner, one Trustee, and a sufficient number of Constables, who shall hold their offices for two years. They shall also have power to appoint one Register and Ranger for the county, who shall hold

¹Pp. 181, 494-495.

their offices during good behavior. The Sheriff and the Coroner shall be commissioned by the Governor."¹

The wave of Jacksonian Democracy struck Tennessee with full force. The result was the Constitution of 1834 which vested the election of many county officers in the people. Since the provisions of the Constitution of 1834 relative to county government were copied into the Constitution of 1870 and are in force today, the appropriate sections will be quoted.

"Article VI, section 13... Chancellors (if courts of chancery shall be established) shall appoint their Clerks and Masters, who shall hold their offices for a period of six years. Clerks of the inferior courts, holden in the respective counties or districts, shall be elected by the qualified voters thereof, for the term of four years. Any clerk may be removed from office for malfeasance, incompetency, or neglect of duty, in such manner as may be prescribed by law.

Section 15... There shall be two Justices of the Peace and one Constable elected in each district by the qualified voters therein, except districts including county towns, which shall elect three Justices and two Constables... Justices of the Peace shall be elected for the term of six and Constables for the term of two years. Upon the removal of either of said officers from the district in which he was elected his office shall become vacant from the time of such removal. Justices of the Peace shall be commissioned by the Governor. The Legislature shall have power to provide for the appointment

¹See Thorpe, op. cit., vol. 6, for the various constitutions of Tennessee.

of an additional number of Justices of the Peace in incorporated towns.

Article VII, section 1... There shall be elected in each county, by the qualified voters therein, one Sheriff, one Trustee, one Register--the Sheriff and Trustee for two years and the Register for four years; Provided, No person shall be eligible to the offices of Sheriff more than six years in any term of eight years. There shall be elected for each county, by the Justices of the Peace, one Coroner and one Ranger, who shall hold their offices for two years. Said officers shall be removed for malfeasance or neglect of duty, in such manner as may be prescribed by law.

Section 2. Should a vacancy occur subsequent to an election in the office of Sheriff, Trustee, or Register, it shall be filled by the Justices; if in that of the Clerk to be elected by the people, it shall be filled by the court; and the person so appointed shall continue in office until his successor shall be elected and qualified; and such office shall be filled by the qualified voters at the first election for any of the county officers."

In addition to the movement which resulted in the popular election of many county officials, there is another development which deserves comment. This is the separation of the duties of the court into those of a judicial nature on the one hand, and of a legislative and administrative nature on the other. Chapter 47 of the Public Acts of 1817 divided the court into two parts. One part, consisting of all members, was to attend to the general business of the county and elect county officers. The other part consisted of

five justices chosen by the court, three constituting a quorum, to try civil and criminal cases.¹

In 1835 a statute provided for monthly meetings of the county courts. One-third or twelve justices constituted a quorum for all business except levying a tax or appropriating public money, which required a majority of all the magistrates of the county. Three justices, however, could continue to probate wills, grant letters of administration, appoint guardians and overseers of roads and do all other business which three could do by law before this act. The court was prohibited from hearing jury cases in the future, an important restriction of its judicial powers. Provision was made for the first time for the election of a chairman. In 1838, the quarterly meetings of the court were restored for all business requiring more than three justices. At the April session of each year the quarterly court was required to choose three members for holding the monthly court.²

In 1857, the office of county judge was created in certain counties. He was elected by the people for a term of eight years and assumed the duties of the quorum court of three members. In 1875, the quorum court was abolished in all counties not having a county judge and the county chairman was invested with all of its powers. The duties of the county court in quarterly session with all magistrates attending are now legislative and administrative. The judicial duties are performed in monthly session by the county judge or chairman.³

¹Edward Scott, Laws of Tennessee (Knoxville: Heiskell and Brown, 1821), vol. 2, ch. 47.

²Acts, 1835, ch. 6; Acts, 1838, ch. 135.

³Acts, 1857, ch. 38; Acts, 1875, ch. 70.

Since 1875 there have been no important statutes materially changing the organization and duties of the county government. Individual counties, however, have resorted to special legislation frequently in an attempt to improve county affairs as will be outlined more fully in later chapters.

There are four outstanding developments during this period, namely, a change from appointment to election by the people as a means of choosing certain county officials; a clearer line of demarcation between the judicial duties of the court on the one hand and those of a legislative and administrative nature on the other; the reduction of the judicial power of the county court by transferring all jury cases to the circuit court; and the rise of an executive head in the person of the county chairman or the county judge.

CHAPTER II

THE PRESENT ORGANIZATION

Tennessee has ninety-five counties. The counties are, in turn, divided into civil districts, not to exceed twenty-five in each. Formerly the districts were of considerable importance in school and road matters, but the tendency toward centralization of recent years is rapidly reducing them to little more than areas for the election of justices of the peace and constables. There are also a number of special districts in each county for school or road purposes. Some of these districts comprise several districts, while others are of less area than a civil district. Since these areas are not permanent and the legislature is constantly abolishing some and creating others, they will not be further considered.

Counties range in population from Shelby with 306,482 to Van Buren with 3,516. Rutherford County is used as a type in this study. Some data will be given concerning it at this point. With a population of 32,291 in 1930, its rank was twelfth. In area it ranks eleventh with 614 square miles. Its assessed wealth in 1928 was \$22,391,231, making it the tenth county in the state in that respect. Murfreesboro, the county seat, with a population of 7,993 in 1930, ranked fourteenth with the cities and towns of the state. Prior to the World War this was a typical Saturday afternoon agricultural town. Since 1920, however, a number of manufacturing establishments have located there and the atmosphere is changing. The county, therefore, stands near the top in the list of counties in the state, and

probably has a government which is above the average in efficiency.

It should not be forgotten that all counties, large and small, have practically the same officers and organization. Moore County, for example, with less than five thousand inhabitants, 141 square miles, and an assessed wealth of \$1,301,861 has the same set of officers as Rutherford or Shelby County.

County offices are created by the Constitution, by general acts of the legislature applying to all counties, by general acts of the legislature applying only to those counties which elect to come under them, and by special acts applicable to only one county. The officers usually found in all counties are the justices of the peace who collectively constitute the county court clerk, clerk and master, circuit court clerk, trustee, register, sheriff, coroner, ranger, constables, county chairman or judge, tax assessor, board of equalization, auditor or revenue commission, finance committee, surveyor, health officer and board or department of health, board of education, superintendent of education, poorhouse commission, poorhouse superintendent, road commission or road superintendent (sometimes both), and notaries public. The first ten of the above officers are provided for by the Constitution. The others are statutory. The chairman of the county court is not a constitutional officer, but the county judge, where he exists in place of the chairman, is an inferior judge within the meaning of the Constitution.¹

Many counties by special act have a county attorney and other officers of less importance. Counties may, if they desire, have a number of officers of more or less importance as public guardian, public administrator or cotton and tobacco weigher. Minor officers

¹7 Heis. 472; 8 Lea 24.

not found in all counties will not be further discussed. Judges of the circuit and chancery courts and the prosecuting attorney will be considered as state officers. A brief description of the more important officers will now be given.

A logical grouping of offices is almost impossible due to overlapping of duties, but for convenience the following outline will be used: (a) officers invested with county authority; (b) officers dealing chiefly with law enforcement; (c) officers dealing with finance and taxation; (d) officers directing public works and institutions; (e) miscellaneous.

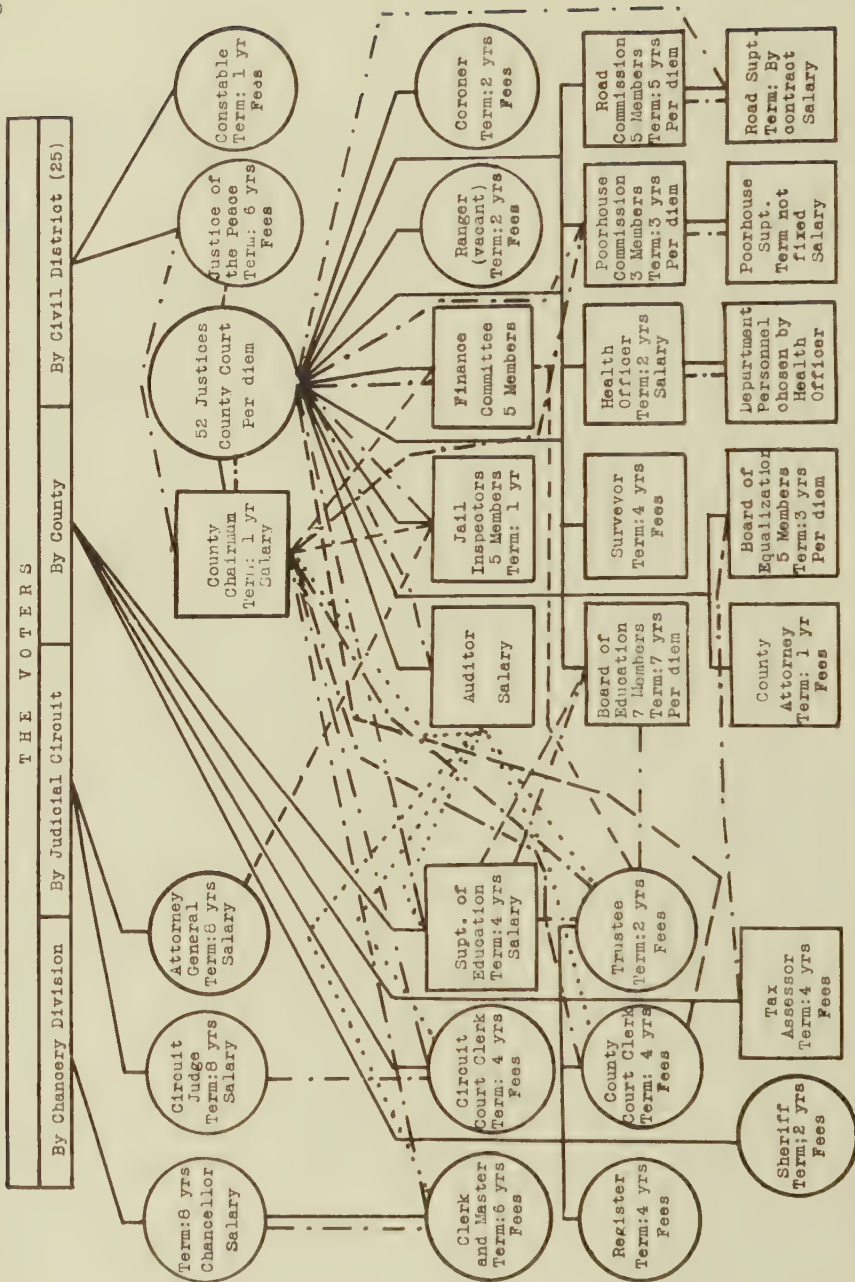
Officers Invested With County Authority.- Under this heading will be discussed the county court, the county chairman or judge and the county court clerk. Since the county court is composed of the justices of the peace these officials will be briefly examined in their individual capacities before undertaking a study of them collectively.

The justice is a constitutional officer, elected by the people of his district for a term of six years. There are two for each district, except districts including county towns, which elect three. The legislature may provide for additional justices for incorporated towns. Nashville, for example, has nineteen. The justice is the lowest judicial officer in the state, his jurisdiction extending to petty cases both civil and criminal, and he may solemnize the rite of matrimony.¹

While the Constitution of 1870 does not specifically create a county court, it apparently takes such an institution for granted. Article 7, section 1,

¹Code (1917), secs. 425, 4189, 5935, 5937, 6953; Const., art. 6, sec. 15.

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reads in part as follows: "there shall be elected by the justices of the peace, one coroner, one ranger,...." Article 11, section 17, states: "No county office created by the legislature shall be filled otherwise than by the people or the county court." The supreme Court of the state has declared that "this court recognizes the county court as an institution of the state, and its functions cannot be transferred to other agencies, e.g. county commissioners."¹

The legislature has provided that the county court shall be divided into a quarterly and a monthly court, the first to be held by the justices and the second by the county judge or chairman.² In reading the code, one not familiar with the system often has trouble deciding when the legislature means the quarterly and when the monthly court since "county court" is used for both.

The court in quarterly session will now be outlined. This body is the legislative and chief administrative organ of the county. Its powers are, however, derived exclusively from legislative enactments. The Supreme Court has said: "The county court, while recognized by the Constitution of 1796 as one of the institutions of the state then existing is, nevertheless, a creature of statutory jurisdiction, and wholly without common law powers."³ The legislature delegates authority to the county either by general statutes applicable alike to all counties, or by special acts applicable to one county only. Examples of the former are the right to levy taxes for general county purposes

¹3 Heis. 683.

²Code (1917), sec. 5992.

³5 Pich. 600, 3 Heis. 682

or for schools and roads. Special acts apply to almost anything.

The most important duties of the court are those relating to fiscal matters. They will be discussed fully in a later chapter.

The quarterly court has rather wide appointive powers. It elects the following officers: coroners, rangers, poorhouse commissioners, workhouse commissioners, county standard keepers and sealer of weights and measures, notaries public, public administrators, public guardians, cotton and tobacco weighers, county revenue commissioners, and jail physicians or health officers. Boards of education and superintendents of education are chosen in some counties by the court, while in others they are elected by popular vote.¹ The court, however, has no general power of removal from office, even in the case of those officers which it appoints. On the other hand, it exercises some supervision over county administration. Reports are required at regular intervals from the county judge or chairman, the revenue commission or auditor, the superintendent of education, the jail committee, and the poorhouse commission. In counties having health departments or road commissions reports are usually made by these departments. These reports are made a part of the minutes of the quarterly court.²

The quarterly court has other miscellaneous powers, as general supervision over county buildings and property; the right to exempt poor persons from road service or poll tax and to grant permission to such persons to peddle without license; to release

¹Code (1917), secs. 1144, 1145; Acts 1925, ch. 115.

²Code (1917), secs. 517, 937, 1487a34 (21), 7438, 2696.

errors in taxation; and to vote the county railroad stock. The salary of the justices for attending court is fixed by law at \$1.50 per day and mileage.¹

The work of the county court in monthly session is partly judicial and partly administrative. It is presided over by the county judge or chairman, and the county court clerk acts as its clerk. It has jurisdiction over wills, letters testamentary, administration of estates, administrator's and executor's accounts, partition and distribution of estates of decedents, insolvent estates, guardians, dower, partition of land, changing names, inquisitions of lunacy, apprentices, and such matters as are conferred upon it by law.²

The county judge or chairman is the chief executive officer of the county. He presides over the county court in quarterly session, is judge of the county court in monthly session, as well as judge of the juvenile court, and is the accounting officer and general agent of the county. The county chairman is created by general statute, must be a member of the court, is chosen by that body, and holds office for one year. If a county wants a judge instead of a chairman special legislation is necessary. The judge is elected by the people for a term of eight years. The number of judgeships is rapidly increasing. By 1928 sixty-two counties were operating under this system.³

There seems to be an impression throughout the state that the county judges are better qualified than

¹Code (1917), secs. 500-510, 6042, 6043, 6386.

²Code (1917), secs. 6022 et seq.

³McQuiddy Publishing Company's list of county officers for 1928.

county chairmen since the former are usually lawyers, hold office for a term of eight years, are customarily reelected, and draw a reasonable salary. The salary of the chairman is fixed by the court and ranges from one hundred to one thousand dollars. Seldom is the salary of a judge below one thousand dollars and in some counties it runs as high as five thousand. By virtue of the larger salary the judge gives most of his time to his office while the chairman often devotes as little time as possible to his duties. One day per week is customary in the rural counties.

The county judge or chairman is not subject to removal by the county court. Neither does he have the power to remove subordinate county officials. He has no right to hire clerical help for his office unless such authority has been granted by the legislature. He has rather wide powers as the accounting officer and general agent of the county, which are summarized in the code as follows:

"(1) To have care and custody of all county property, except such as is by law placed in the custody of other officers.

(2) Agent or attorney.- To appoint an agent or attorney to take care of such property, and to allow him compensation.

(3) Control of books etc.- To control all books, papers, and instruments pertaining to his office.

(4) Audit claims.- To audit all claims for money against the county.

(5) Draw warrants.- To draw without seal all warrants on the county treasury.

(6) Settle accounts.- To audit and settle the accounts of the trustee; and those of any other collector or receiver of county

revenue; taxes or incomes, payable into the county treasury; and those of any person instructed to receive or expend any money of the county.

(7) Require officers to settle.- To require said officers or persons to render and settle their accounts as directed by law, or by the authority under which they act.

(8) Warrant book.- To enter into a book, to be known as the warrant book, in the order of issuance, the number, date, amount and name of the drawee of each warrant drawn upon the treasury.

(9) Account books, etc.- To keep in a suitable book an account of the receipts and expenditures of the county, so as to show clearly the assets of the county, and the debts payable to and by it, balancing said accounts semi-annually and generally superintend the financial concerns of the county.

(10) To report, in writing, semi-annually, to the county court all moneys received and paid out and a complete statement of the financial condition of the county; and he shall settle his accounts once every year."¹

Although the above powers are not sufficient to make the judge or chairman a real executive head, in counties where this official is a man of ability and influence county affairs are often well managed. In many counties, however, he is utterly unqualified and makes little effort to exercise the powers given him.

The county court clerk is classified with those officials invested with county authority partly because

¹Code (1917), sec. 517.

of the difficulty of placing him elsewhere due to his many and varied duties, and partly because of his fairly wide powers as clerk of the county court in monthly session. In many counties where the chairman is especially weak the county court clerk often does the greater part of his work. Notwithstanding this, his work is primarily clerical.

He is a constitutional officer elected by the people for a term of four years. His duties are fixed by law. He is the clerk of the county court in quarterly and monthly session, and keeps all records of both courts. He is also an important link in the tax machinery of the state. He makes out the tax books from the assessor's lists and delivers them to the trustee; collects the state automobile license tax; the state inheritance tax; the merchants' privilege tax; assesses and collects the merchants' ad valorem tax; and collects a tax on mortgages and deeds above \$10,000. He is required to keep a revenue docket. He issues marriage licenses, hunting licenses and keeps the record of vital statistics.¹

Officers Dealing Chiefly With Law Enforcement.—These, in addition to those already discussed, are the sheriff, coroner, constable, and clerks of the circuit and chancery courts.

The sheriff, the chief law enforcement officer of the county, is a constitutional officer elected by the people for a term of two years. If he allows laws to be openly violated he may be ousted by the courts.

¹Const., art. 6, sec. 15; Code (1917), secs. 5882-5890, 611, 748, 723a17, 979, 653, 4191, 2883a33; Code. Sup. 1926, sec. 1720a7b20, 712, 3118a48b1-5.

Other duties are the execution and return of the process and orders of the courts of record, waiting upon all courts held in his county, and managing the jail. He appoints his own deputies. The deputy sheriff presents one of the most difficult problems of county government. This is especially true in the larger cities where these officers are commonly referred to as "fee-grabbers."¹

The coroner is elected by the county court for a term of two years. The duties of the office relate chiefly to inquests over dead bodies. This office is very poorly administered throughout the state and many persons well informed about the administration of justice are of the opinion that it should be abolished.²

The Constitution makes provision for two constables for each civil district which includes a county town, and for one in every other civil district. The term of office is two years and the method of election is by popular vote. The constable serves process, and is a conservator of the peace vested with common law powers. The constable's duties are very similar to those of a deputy sheriff and he presents, in a way the same problems. There seems to be little reason for the existence of both offices.³

The circuit court clerk and the clerk of the chancery court called the clerk and master, are constitutional officers, the former elected by the people for a term of four years and the latter appointed by the chancellor for a term of six years. Vacancies are filled by their respective courts and not by the county

¹Code (1917), sec. 449; 188 S. W. 225, 597.

²Const., art. 7, sec. 1; Code (1917), sec. 7274.

³Const., art. 6, sec. 15; Code (1917), secs. 481, 482.

court. The duties of both offices consist, primarily, of keeping records for their courts. The clerk and master, however, is usually appointed trustee or receiver by the chancellor in cases arising in the chancery court.¹

Officers Dealing With County Finance and Taxation.— These officials, in addition to the county court, the county judge or chairman and the county court clerk are the trustee, revenue commission or auditor, finance committee, tax assessor and board of equalization.

The trustee is elected by the people for a term of two years. He is the tax collector and the treasurer of the county and as such exercises the powers usually dependent on these offices. It is primarily a bookkeeping job. He exercises no discretion in the payment of warrants properly drawn on the treasury and to refuse to pay a warrant when he has sufficient funds on hand for that purpose is a misdemeanor.²

County auditing has never been satisfactory. Prior to 1917 it was done by a commission of three members appointed by the county court. One of the members was required to be an expert accountant. In 1917 the legislature passed a law allowing counties to have an auditor appointed by the court. Many counties have taken advantage of this act. The county judge or chairman is also required by law to audit the books of all officers handling county revenue but this is a dead letter in most instances. State auditors examine the books of all county officers collecting or spending state revenues and it is these officials who discover shortages in county accounts.³

¹Const., art. 6, sec. 13; Code (1917), sec. 401.

²Const., art. 7, sec. 1; Code (1917), secs. 523-5.

³Code (1917), secs. 935 et seq.; Sup. 1926, secs. 582a1, 373a44.

The finance committee is composed of three members of the court, the trustee and the county judge. Its duty is to receive bids from banks for interest on county funds and to make contracts for placing these funds. Although its powers are not extensive, by virtue of its membership it exercises considerable control over finances in some counties.¹

The tax assessor is a statutory official elected by the people for a term of four years. It is his duty to personally see each taxpayer of the county, to go on the premises of all realty to be assessed, to assess all property in the county subject to taxation and to make a report of all such property.²

The county board of equalization is composed of five members appointed by the court for two year terms, three members elected one year and two the next. The duties are, as is usually the case, the reviewing of the rates fixed by the assessor for the county.³

Officers Directing Public Works and Institutions.- These include the poorhouse commission and poorhouse superintendent, health officer and board or department of health, board and superintendent of education, and in most counties a road commission or superintendent or both.

There are three poorhouse commissioners chosen by the court and removable at any time by that body. They have general supervision over the county farm and asylum and choose a superintendent who holds at their pleasure. The salary of the superintendent is fixed by the court. He reports annually to the commissioners who in turn report to the county court. In actual

¹Code (1917), sec. 6048a1.

²Code (1917), secs. 761 et seq.

³Code (1917), sec. 801 et seq.

practice the commissioners simply present the superintendent's report to the court. The commissioners have no power to issue warrants on the county but may make the necessary purchases for the maintenance of the farm and asylum. The commissioners could be easily dispensed with, especially in the small counties.¹

The board of health is composed of the health officer appointed by the court for a term of four years, the county judge or chairman, and the county court clerk. It has the right to incur expenses in preventing or restricting epidemic diseases, and is required by law to adopt and to carry into effect the rules and regulations of the state board of health. In 1921 the legislature passed a general act allowing all counties to create departments of health under the full time supervision of a capable physician in place of the old boards of health. By 1930, thirty-eight counties had taken advantage of this act.²

Counties may organize highway departments under a general state law or they may resort to special legislation and have any type of organization that they desire. Most counties have chosen the latter method with the result that there is considerable variation from county to county. Probably the most common type calls for a commission and a superintendent. The commission has general supervision over the roads, has control over the spending of road funds and usually chooses a superintendent who has active charge of the highways. The commission is sometimes chosen by the

¹Code (1917), sec. 2681 et seq.

²Code (1917), secs. 3106 et seq.; Public Acts 1921, ch. 89; Letter from Dr. Bishop, Commissioner of Public Health, dated July 7, 1930.

court and sometimes by the people. In a few counties the superintendent is chosen by popular vote.

The board of education is elected by popular vote in some counties and appointed by the county court in others. In most counties it is composed of seven members, one member elected annually and holding for a term of seven years. It has general supervision over schools of the county, passes on the school budget prepared by the superintendent, countersigns all warrants issued by the superintendent, and makes contracts with teachers, janitors, and engineers, but all contracts for material amounting to over \$100 must be awarded to the highest bidder.¹

The superintendent of education is chosen by the county court in some counties and by the people in others. The term is two years and his salary is fixed by the county court. There has been a tendency in recent years toward the enactment of special legislation requiring the superintendent to be elected by the people. This is partly due to distrust of the county courts and partly due to factional struggles within the county. In 1927 five counties² changed from election by the court to popular election, while the reverse was true in only two counties.³ In 1929 twelve counties⁴ made provision for popular election, while one county⁵ adopted the system of election by the board of education. The superintendent has general

¹Code, Sup. 1926, sec. 1487a26 et seq.

²Benton, Monroe, Perry, Rhea and Sevier.

³Carrol and Dickson.

⁴Blount, Cannon, Grundy, Hancock, Hawkins, Hickman, Jackson, Jefferson, Pickett, Sullivan, Van Buren and Weakley.

⁵Lake.

supervision over all county schools, is ex officio a member of the county board and carries out its orders.¹

Miscellaneous Officers.— Only the more common miscellaneous officers will be referred to. The register is elected by the people for a term of four years. His duties are purely clerical and consist of registering all deeds and other instruments left to be registered in a book for that purpose. In recent years women have been very successful in contests for this office. The ranger is a constitutional officer elected by the court for a term of two years. His duties are to take up and dispose of estrays. The office is vacant in most counties today. Each county also has a surveyor appointed by the court for a term of four years, and as many notaries as are necessary for the county. The county attorney is not a regular county officer but is created by special act of the legislature. There has been a rapid increase in the number of county attorneys in recent years. The duties consist of advising the county court and of instituting and defending suits for and against the county. In the counties with large cities it is an important office.²

Although the reader has, no doubt, already visualized many of the weaknesses of county government, these faults will be briefly summarized before showing the evils that they produce in the actual workings of the system.

In the first place, the relation of the state to the county is far from perfect. Too much faith is put in constitutional and legislative restrictions,

¹Code, Sup. 1926, sec. 1487a34 et seq.

²Const., art. 7, sec. 1; Code (1917), secs. 567, 2760 et seq. 530, 3194.

The finance committee is composed of three members of the court, the trustee and the county judge. Its duty is to receive bids from banks for interest on county funds and to make contracts for placing these funds. Although its powers are not extensive, by virtue of its membership it exercises considerable control over finances in some counties.¹

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¹Code (1917), sec. 6048a1.

²Code (1917), secs. 761 et seq.

³Code (1917), sec. 801 et seq.

by popular vote and, with few exceptions, judicial proceedings charging malfeasance or misfeasance are necessary for removal.¹

The institutional activities are listed by Willoughby as embracing such work as "maintenance, care and operation of the plant, the recruitment and management of personnel, the purchase, custody and distribution of supplies, the receipt, custody and disbursement of moneys, the keeping of accounts and the preparation and rendition of reports, the handling of correspondence and files, and other like matters."² Again no one office has control of all these activities. The care of the plant is partly vested in the court and partly in the chairman. Recruitment and management of personnel are unknown in county government. The purchase, custody and distribution of supplies is not centralized except in a very few large counties. The receipt, custody and disbursement of funds are chiefly in the hands of the trustee, though he has no discretion as to the payment of warrants properly drawn. The chairman or judge is required to countersign all warrants on the county and to audit all claims for money against the county. All officers collecting county revenue are required by law to make periodic settlements with the chairman or judge, and to turn such moneys over to the trustee. Each county official handles his own correspondence and keeps his own files. Administrative reports are sent directly to the county court, where they are read, occasionally discussed and placed upon the

¹Const., art. 6, secs. 13, 15; art. 7, secs. 1-2; Code (1917), sec. 1118.

²Willoughby, op. cit., pp. 45-46.

minutes. The budget is not prepared by the chairman but by the court itself, if "budget" be the proper word for the customary procedure before the court.

Who then is responsible in such a system? If the trustee is guilty of embezzlement, who is at fault? The people chose him. The county judge and the revenue commission or auditor look over his books, but neither has any power to require him to keep books according to a modern system. No one exercises authority over him except in cases specified by law. The same question might be asked in regard to all other county officials. There simply is no such thing as centralized responsibility in county government.

The size of the county presents a third major problem. Counties were originally laid out in days of ox cart transportation. County functions were indeed limited. Hence the area was small. Today the business of the average county is so small as to render an effective and well integrated organization impossible. Furthermore, lack of concentrated wealth prevents efficiency in the newer functions of government, as schools, roads, health and the like.

Other weaknesses which are primarily an outgrowth of those already discussed and which are likewise expanded in later chapters are the long ballot, tenure of office, the excessive number of offices, boards and commissions, overlapping of duties, poorly qualified officials, too many members in the county court, obsolete methods in all phases of financial administration, inequalities in salaries, waste in purchasing, carelessness in letting contracts, lack of interest on the part of the public and control by county "gangs."

CHAPTER III

THE STATE AND THE COUNTY

This chapter will be treated under two heads, (1) the relation of the state legislature to the county, and (2) the relation of state administration to county administration.

As stated before, the legislature passes laws for counties by general and special legislation. There are criticisms to be offered in both cases. In the first place the general acts are often hastily drawn up and do not prove satisfactory with the result that special acts in that field continue to be passed. A good example is the general road law for counties passed by the 1929 legislature.¹ During the same year the legislature added a one cent tax on the sale of gasoline, the proceeds to be used for county roads. This necessitated negotiations between the state highway department and the counties. The chief purpose of the act was, therefore, to create the necessary machinery for establishing the proper relationship between the two agencies. It applies to counties that do not have a county highway organization. It provides for three members elected for three years by the county court, the court designating one of the members as chairman. The chairman is the agent of the county in dealing with the state department of highways and public works. The duties of the commission are to provide an efficient system of laying out and building, reconstructing, repairing, and maintaining public roads

¹Public Acts, 1929, ch. 54.

and bridges, and operating, constructing and repairing ferries. No power of removal was given to the court or any other agency. The act is silent as to auditing, disbursements, and competitive bids, and no provision was made for reports of any kind. It is very likely that private road acts will continue to pour into the legislature at every session.

There is no reason why this type of legislation cannot be taken care of by carefully planned general acts with optional provision to take care of situations peculiar to individual counties or sections. Such, however, is not the case and the number of special acts increases from session to session as is shown by Table I.

As one turns the index of the Private Acts of 1929 one's eye falls on the following titles: An Act to Permit Keeping of Wild Animals as Pets in Hickman County; J. C. McRae Substituted for Shores on the Finance and Budget Commission of Obion County; Only Fifty Minnows a Day to be Caught and Sold in Cannon County; O'possum Hunting Law for Franklin County; Poultry Thief Law for Obion County; An Act Providing for a Stenographer in the Office of the Hamilton County Attorney General Repealed; County Judge of Scott County Authorized to Employ Clerical Help; Office of Deputy County Court Clerk Created for Polk County; Authorizing Lewis County to Employ Legal Council for the Court; Tax Assessor of Gibson County to Keep Office Hours.

TABLE I

Private Legislation in Tennessee for
1927 and 1929

	1927	1929
Total number of public acts (general).....	90	146
Total number of private acts (special)....	833	933
Total private acts applying to counties..	617	654
Acts creating auditing commissions.....	4	2
Budget commissions.....	0	6
Indebtedness bonds.....	13	17
Indebtedness notes and warrants.....	10	18
Bonds for all other purposes.....	63	60
Changing county lines.....	13	8
Regulating courts and juries.....	24	20
Compensation of county officials.....	102	115
Changing civil district lines.....	7	15
Dog laws.....	7	12
Elections and ballots.....	3	10
Game and fish laws.....	33	51
Laws creating health units.....	0	2
Acts creating new county offices. (Other than boards or commissions)....	34	30
Road laws (other than bond issues and special levies).....	65	72
Acts creating or abolishing special school districts.....	37	31
Laws regulating county school systems..	44	41
Stock laws.....	16	10
Special county tax levies.....	4	25
Purchasing commissions.....	1	0
Miscellaneous.....	137	109

Private legislation of this type results in a number of evils. In the first place it takes up the time of the legislature and often results in local issues overshadowing state problems in the election of members of the legislature. For example, in recent years in Middle Tennessee there has been a fight on between the sheep raisers and the fox hunters over a dog law. This is decided by one faction or the other getting control of the delegation to the legislature. Except in a few large counties this means one man or two members at most. Therefore the election of the candidate is sometimes decided by whether he is pro-dog or anti-dog with little regard for his knowledge of state problems. This shifting of responsibility from the county tends to reduce interest in county affairs.

In the second place political factions of the county use the legislature as a means of reducing the power of their enemies. Recent examples are the case in Cannon County, where the Democratic member of the legislature had a special act passed taking the election of the county superintendent of education away from the Republican county court and increasing the board of education to fifteen members; the case in Bedford County, where the method of electing the county chairman was changed in order to get the incumbent out of office at the expiration of his term, and the situation in Rutherford County today where two highway boards and two superintendents are waging a battle royal in the courts.¹ Such cases are very frequent. Many of the acts fixing the compensation of county officials are the result of maneuvers of politicians to get a salary increase. It should be remembered that the county is a veritable nest for local politicians. The effect of this on good administration can be readily seen.

¹Private Acts 1927, ch. 432; 1929 chs. 748, 878.

In the third place all kinds of questionable legislation can be passed by local politicians that the general public knows little of. Perhaps the classic example took place in Rutherford County a few years ago. In 1926 the Carnation Milk Company became interested in the location of a milk condensing plant in Murfreesboro. Business men of the town and farmers of the county became greatly interested at the prospect of getting such a large plant. There was already in the town a small plant and the Carnation Company left the impression that the local plant would have to sell out to them. The local plant was assessed at two thousand dollars on the trustee's books.¹ Its total investment was commonly reported at about \$28,500. Taking advantage of the enthusiasm generated by the possibility of the town getting the big plant, the local company announced that it would not sell out for less than \$117,000. A mass meeting was then called of the farmers and business men of the county. An interesting piece of mass psychology took place. The farmers were led to believe that if they did not buy out the local plant the Carnation Company would not come to Murfreesboro.

A group of Murfreesboro business men attempted to act as peacemakers. A committee was accordingly appointed to negotiate with the local concern. Within thirty minutes the chairman of the committee announced that the local corporation had agreed to compromise at \$67,000, leaving the impression that a great victory had been achieved. He stated that that figure might be a little high but that the local plant had within the last few months become a paying proposition and that it deserved the price of a successful business, all of

¹Tax Book, 1926, p. 258.

which was doubtful. Only one member of the committee opposed the compromise. He took the floor and with much logic told the farmers that they were paying \$67,000 for an enterprise that cost less than \$30,000, that had never made any money and that the owners had repeatedly tried to sell. He advised delay in the matter, stating that the owners would gladly take a reasonable sum for their plant when they saw that the farmers of the county would not be stampeded into paying more. His advice fell on deaf ears. Delay might prove fatal. The plant might be lost. One hundred farmers and business men signed a note for \$67,000 and took over the plant.

The Carnation Company then took the plant off their hands at a reasonable figure leaving a deficit of about \$25,000 on their shoulders. Enter the county at this point. Some of the men who signed the note had no idea of paying anything. They immediately started the necessary machinery to work and had the legislature pass an act authorizing the county to assume the debt. Since the act is short, it will be quoted in full to show how harmless it appears on the surface.

"Section 1. Be it enacted..., That all counties in the State having a population of not less than 33,050, nor more than 33,065 inhabitants, according to the Federal census of 1920, or any subsequent Federal census, through their quarterly courts in regular or called session are hereby authorized and empowered to make appropriations of money and bind the credit of such counties for donations for sites and buildings for the purpose of encouraging and developing enterprises having for their object

the manufacture of the County's products, and to prescribe ways and means and rules and regulations governing the expenditures of money so appropriated.

Section 2. Be it further enacted, that the amount of such appropriations provided for in sec. 1 of this act, when authorized by the quarterly courts of such counties, shall be set out and embodied in a Resolution, which Resolution shall set forth in full the purpose for which said appropriation is to be used, together with all contracts incident thereto; but before said appropriations shall be available said Resolution shall be adopted by a majority of the members present and voting at such meeting of such quarterly courts, and shall be entered upon the minutes of said court."¹

It was very generally thought that the above act was unconstitutional in view of the following section of the Constitution:

"The general assembly shall have power to authorize the several counties and incorporated towns in this state, to impose taxes for county and corporation purposes respectively, in such manner as shall be prescribed by law; and all property shall be taxed according to its value, upon the principles established in regard to state taxation.

But the credit of no county, city or town, shall be given or loaned to or in aid of any person, company, association or corporation, except upon an election to be first held by the qualified voters of such county, city or town, and the assent of three-fourths of the

¹Private Acts 1927, ch. 106.

votes cast at said election. Nor shall any county, city or town become a stockholder with others in any company, association or corporation except upon a like election, and the assent of a like majority.."¹

Furthermore, the State Supreme Court had recently decided in the case of Ferrell v. Doak² that a tax levy to aid in the construction of a box factory was not a tax for "county and corporation purposes" within the meaning of the Constitution. The county attorney called attention to this fact and the following amendment to the above act was passed during the same session of the legislature:

"...provided that said appropriation shall be paid out of the fines and forfeitures paid into the county treasury for the use of the counties by the circuit court clerks and the magistrates of said counties and of the municipalities therein, said fines and forfeitures to be kept in a separate account by the trustee, and to be first applied to the payment of said appropriations until the same are discharged."³

The purpose of this amendment was to avoid the decision in the Ferrell case. It is very probable, however, that the amendment is unconstitutional in view of the prohibition against donations or loans to persons or corporations in the second paragraph of the above quotation from the Constitution. The amendment had another advantage in that by paying the appropriation out of fines and forfeitures the transaction would receive less publicity than would a tax levy by the court.

¹Const., art. 2, sec. 29.

²152 Tenn. 88.

³Private Acts 1927, ch. 580.

And secrecy was to be greatly desired in the entire proceeding. The county attorney told the writer that very few citizens of the county knew just what had been done by the act and by the amendment, excepting, of course, those directly interested in the matter.

There might be some argument for certain types of private legislation regulating county affairs if such legislation acted as a check. In actual practice, however, the reverse is true since much legislation is quietly passed that would never be approved by the county if responsibility were placed at home and not in distant Nashville. Courtesy demands that the legislature pass without question all acts pertaining to counties that the local delegation favors.

Another criticism of the endless mass of special legislation for counties is that county officials often do not know what the law for their county is. A few cases in point will be given. In 1909 a special act of the legislature created the office of county judge for Rutherford County. The following year the judge died and the governor, a Republican, appointed one of his party to fill out the unexpired term. This was too much for the Democratic politicians and in 1911 another special act was passed by the legislature repealing the act of 1909. The act was to take effect immediately notwithstanding the decisions of the Supreme Court that the office of county judge cannot be abolished during the incumbent's term.¹ The incumbent, however, immediately gave up the office. The general impression is that he did not know any better.

In 1919 the office of county auditor was created for Rutherford County by special legislation. The auditor was to be appointed by the governor. The auditor

¹Private Acts 1909, ch. 577; 1911, ch. 219; Code (1917), sec. 385 and notes.

appointed under this act served for about ten years and resigned. The county court then came to the conclusion that the act of 1919 was unconstitutional since it vested the election of a county officer in the governor. The Constitution states that "no county office created by the legislature shall be filled otherwise than by the people or the county court." The court, accordingly appointed an auditor under the general act of 1917.¹

The act of 1927 creating a county judge for Bedford County fixed the term at six years, yet the Supreme Court has ruled that the term of this official is eight years.²

The editor of the code in a note lists thirty-two counties having local game laws and forty-two having local fish laws "thought to be in force, with expressions of doubt in some instances."³

An amusing situation is often produced by one county inheriting a special act from another as a result of a new census. Special acts do not name the county for which they are intended but apply to all counties of a certain population according to the last Federal census or any subsequent Federal census. When such a situation arises the county which is caught by the new census either ignores the act or has it repealed at the next session of the legislature, provided, of course, county officials make the discovery.

Unquestionably a large per cent of the special acts for counties are unconstitutional, and many are so declared by the courts. The majority of them, however, never get into the courts and are either regarded as binding or are forgotten.

¹Private Acts ch. 587; Const., art. 11, sec. 11; Code, Sup., 1926. 582a.

²Private Acts (1927), ch. 432; Code, sec. 385.

³Code (1917), sec. 2883a75 and notes.

The centralization movement of recent years has struck Tennessee with considerable force. Especially is this true in the field of road construction and education. Local finance, charities and corrections, and health have experienced some state supervision. Each of these subjects will be briefly discussed.

Prior to the recent good roads era road building was left to the county and civil district. Notwithstanding the wide range of legislation upon this subject, roads, in general, were very poor in practically all sections of the state. Even the toll roads came in for much criticism. The coming of the automobile demanded better roads and this in turn called for a more efficient type of administration than the county or district could give. At first the state attempted to construct a system of roads by cooperating with the county. Under this scheme the county built the roads but received state aid, provided, of course, it complied with the requirements of the state highway department. Furthermore before the county could issue bonds for certain types of roads the project must have first been approved by the state highway department.¹

Since some counties could not or would not build their links in certain important trunk lines the state finally took over all important roads as part of a comprehensive system of state highways. At present the state has little contact with the county in road building with the exception of the gasoline tax of 1929 for county roads and right of ways for state highways within the counties.² In the latter case when the state highway department designates a road as a part of the

¹Code (1917), secs. 1720a7b8, 1695a42.

²Public Acts 1929, ch. 55; Code, Sup. 1926, sec. 1720a7b9.

state system, the county is required by law to furnish the state with a right of way designated by the state department. In the case of the gasoline tax for county roads the state department administers the tax in counties having no highway department. In counties having a highway commission the county court may elect to allow the state department to spend the funds or may instruct the county commission to use them. But in the latter case the work must come up to the specifications of the state department, which has an inspector on the scene of construction. The state highway department has divided the state into four administrative regions with an engineer in charge of each. These regions are in turn divided into districts of about three or four counties with an engineer in charge. It is these last mentioned engineers who supervise the county commissions in the administration of the funds derived from the gasoline tax.¹

The state department of education has for a number of years exercised considerable supervision over county schools. The reorganization act of 1923 and the uniform education law of 1925 further extended its authority.² A few of the more important powers of the Commissioner of Education are: to exercise general supervision over the state system of schools; to see that all laws are executed; to require teachers to attend county institutes; to require reports of all state, county and city public school officers; to inspect all schools; to collect and publish statistics; to conduct examinations for teachers and to issue

¹Information furnished by Mr. Neely of the state department of highways and public works.

²Public Acts 1923, ch. 7; 1925, ch. 115; Code Sup. 1926, secs. 1487a23 et seq.

certificates; to revoke certificates; and to recommend courses of study. The state board of education among other powers selects lists of library books, grades and classifies schools and adopts a minimum salary schedule. The administration of an elaborate system of grants in aid, both for special kinds of schools and for equalizing educational opportunities, when added to the above duties of state officials; gives Tennessee one of the most highly centralized systems in the south.

Prior to the act of 1921 allowing counties to create departments of health in place of the old boards of health, the state department of health exercised little control over county boards of health. About all the authority the state board had was to issue orders in regard to epidemics which the county boards of health were required to carry out.¹ In actual practice this amounted to little. At present, under the act of 1921, the state health department is exercising considerable authority over county health departments by means of grants in aid. Under this plan the state department outlines a definite health program for the counties that participate in state funds, or it may approve plans submitted by local authorities. Furthermore the funds appropriated by the county court are turned over to the state department of health for disbursement although no money raised in one county can be spent in another. The county health officer makes monthly reports to the state, and the director of local organizations for the state department acts in an advisory way toward county departments and passes upon their budgets. It appears that the local units work in harmony with the state department. It is generally conceded that counties organized under the new plan with a health department

¹Code (1917), sec. 3106; Public Acts, 1921, ch. 89.

and state supervision are far more efficient in health matters than are counties operating under the old system.

Public welfare administration is one of the weakest links in county government. The state and county each maintains its set of penal and charitable institutions. Formal inspection of county jails, workhouses and almshouses is, however, charged to the Welfare Division of the State Department of Institutions. All plans for new jails must be submitted to the Division for suggestion and criticism.¹ The Division, however, has only advisory powers. The reports of the inspector of jails and almshouses indicate that these institutions, especially the latter, are in a deplorable condition.² County welfare work is carried on by a number of independent organizations. The Director of the Welfare Division is attempting to work out a unified system for each county and has met with considerable success in many cases, but again he acts only in an advisory capacity.

A brief statement regarding state supervision of county finances will be given at this point although the whole question of county financial administration is fully outlined in Chapter V. The assessment of property is very poorly administered in all counties. While the State Board of Equalization is given authority to review assessments and to equalize rates between the counties, it has no authority to supervise the work of local assessors or to require them to adopt modern methods. The Department of Finance and Taxation, however, is given some authority over county

¹Public Acts 1895, ch. 193, sec. 2; Code (1917), secs. 2673-2654; Sup. 1926, sec. 373a103.

²Outlined fully in Chapter VII.

officials collecting and spending state revenues. The code gives this department the following powers:

"5. To prescribe forms for accounts and financial reports and statements... for all political sub-divisions of the state handling state revenues.

6. To supervise and examine the accounts and expenditures of..., and of all the political sub-divisions of the state handling state revenues.

The commissioner of finance and taxation by and with the approval of the governor shall appoint three auditors whose duty it shall be to make an annual audit of the books, accounts and records of the several counties of the state, including the offices of the county court clerk, county trustee, and courts of record in the several counties of the state. Said audit to be made for the purpose of ascertaining errors, irregularities, or defaults if any, in the office of any such county officer, and for the purpose of checking all bills to see that all proper items of cost, both county and state, have been duly charged and taxed and reported by the clerks of said courts in all civil, criminal, and chancery cases; and also to examine and check the accounts of the county superintendents of public instruction in said counties for the purpose of ascertaining that the school funds of the state are being expended according to the laws of the state of Tennessee, and for the maintenance and extension of terms of schools in the counties as provided and contemplated by the laws of the state of Tennessee."¹

¹Code, Sup. 1926, secs. 373a44; 948a10.

State auditing of county accounts has produced very satisfactory results. Unfortunately it does not apply to all county officers but only to those handling state funds. The installation of a uniform system of accounting has not been so successful. Partly as a result of local opposition and partly as a result of a small auditing force, the state department of finance and taxation has not seen fit to make uniformity compulsory and less than half of the counties have adopted the new system.

The recent steps in the increase of the powers of the state at the expense of the county seem to be giving general satisfaction. County officials who are professional men, as health officers and superintendents of education and who are capable of appreciating efficiency methods, have, in general, welcomed state administrative supervision. The non-professional officials, as the trustee and county court clerk, who look upon their office as temporary, who want to get as much as possible out of the office for the least effort and who detest efficiency, are loud in their cries against state supervision.

That the state should exercise control and supervision over the county no one will deny. But at present, the points of contact are in the wrong places. There should be a shift from minute legislative regulation to administrative supervision in the more intricate matters of finance. Special legislation should give way to general acts with optional provisions where necessary. The county should be allowed the privilege of having a more modern structure of government with control over ordinary administrative matters such as "hiring and firing," regulating salaries, determining the number of clerical, technical and professional employees and the like. It should probably be given a

limited ordinance making power. In other words, home rule with state administrative supervision. Such a condition would not only be conducive to efficiency but would after all be more democratic. It is undemocratic for the constitution or laws of a state to tie the hands of a locality in matters of self government, or for a group of local politicians to quietly get the legislature to pass acts for their benefits. On the other hand, the locality does not sacrifice much independence when the state examines the books of one of its servants, or advises the county health department.

CHAPTER IV

THE COUNTY COURT

The next three chapters give a picture of the system as it actually functions. Chapter IV deals with the county court; Chapter V with financial administration and the budget; while Chapter VI gives a more intimate view of certain administrative and clerical offices.

County courts naturally have a reputation for being good, average or poor. The writer visited a number of counties in Middle Tennessee during the summers of 1928 and 1929. Of these counties the court of Lincoln County had the best reputation, though the Warren County court also seemed to be giving satisfaction. Courts in all other counties were criticized more or less vigorously. Rutherford County, which is used as a type throughout this study, has a court somewhat above average, though it is severely criticized at times.¹ The court of Cannon County has long been looked upon as little better than a joke. The courts of these counties have been chosen as types for the study of the qualifications of members. The following table shows the population, density per square mile, and wealth of the three counties. It also shows their rank in these respects.²

¹Six out of seven school principals and superintendents who had seen the Rutherford County court and courts of other counties in session stated that the Rutherford court was above the average in their estimation. These teachers were members of one of the writer's classes.

²Census 1930, preliminary report; Report of the Commission of Finance and Taxation, 1929.

TABLE II

Population and Wealth of Three Type Counties

	Population	Density	Assessed Wealth	Per Capita Wealth
Rutherford	32,291	52.59	\$22,391,231	\$693.42
Rank	11	32	10	10
Lincoln	25,091	42.74	12,703,792	506.31
Rank	29	44	25	39
Cannon	8,934	33.37	2,922,287	326.77
Rank	85	72	81	72

A questionnaire was used to get the desired information concerning the magistrates. The response was very satisfactory. Of the fifty-three magistrates in Lincoln County fifty-one answered; thirty-nine out of fifty-two responded for Rutherford; while twenty-four out of thirty-two replied in Cannon County. The answers for the three counties together show that the typical member of the court is a man fifty-five years of age, married, a church member, has no education above the elementary schools, has not held other public offices, is a farmer, and pays taxes on only \$2325 worth of property under the general property tax.¹

The next step is an attempted explanation of why the Lincoln County court is considered above the average while the Cannon County Court is considered far below. The following table, compiled from the answers to the questionnaire, throws some light on the subject.

¹Property assessments were obtained from the trustees' books for all magistrates in the three counties.

TABLE III

Answers to Questionnaire by Counties

	All Counties (114 Ans.)		Rutherford (39 Ans.)		Lincoln (51 Ans.)		Cannon (24 Ans.)	
	No.	%	No.	%	No.	%	No.	%
Married	111	97.4	38	97.5	49	96.2	24	100.0
Church Member	92	80.7	32	82.0	45	88.3	15	62.5
Attended College	15	13.2	4	10.2	8	15.7	3	12.5
High School	28	24.3	12	30.8	11	21.6	5	20.8
Elementary	71	62.3	23	59.0	32	62.5	16	66.6
Held Other Public Offices	32	28.0	14	35.9	5	9.8	13	54.1
Farmer	99	86.9	34	87.2	44	86.3	21	87.5
Worked at Two or More Occupations	51	44.6	24	61.5	15	29.4	12	50.0

The above table shows a few differences worthy of note. In the first place, the per cent of church members for Cannon County is much lower than for the other two counties. In Lincoln County the per cent that had held other public offices was very low. Moreover, the Lincoln County magistrate had devoted his time to one occupation to a greater degree than had the magistrates of the two other counties. These last observations have some significance. They indicate that the Lincoln County justice is neither a professional office seeker nor one who changes from one business to another. The Lincoln County court also has a slight advantage in college training. In age distribution there was little difference between the three counties, the median for Lincoln being fifty-six years, Rutherford, fifty-four and Cannon, fifty-three.

The next table, dealing with the financial standing of the members of the three courts, is of considerable significance.¹

TABLE IV

Comparison of the Financial Standing of the
Members of the Three Courts Based Upon the General
Property Tax

County	Minimum	Median	Average	Maximum	Average	Average
					Farm Value	Family Wealth
Rutherford...0	\$3750	\$4896	\$27,500	\$2656	\$2430	
Lincoln.....0	4000	6826	77,000	2500	1945	
Cannon.....0	1000	1669	18,814	1221	1091	

Although Rutherford County excels Lincoln in both assessed and per capita wealth, the Lincoln County magistrate has the higher financial standing. The median for Lincoln is slightly above that for Rutherford; the average taxable wealth of the Lincoln County magistrate is \$6826, while that for Rutherford is only \$4896. It is in the maximum wealth, however, that the greatest difference is observed, the wealthiest man in the Lincoln court being taxed on \$77,000, while the maximum for Rutherford is \$27,500. There were seven members of the Lincoln court who paid taxes on \$15,000 or more and only two in the Rutherford court.

¹Trustees' books for 1929; U. S. Census 1930; Paul W. Stewart, Market Data Handbook of United States, pp. 93-94; Report of the Commissioner of Finance and Taxation, 1929.

Over ninety-seven per cent of the magistrates of all counties were married and eighty-seven per cent were farmers. The wealth of each magistrate, therefore, to a very great degree, represents a family and a farm. The two last columns of the above table indicate that the voters of Lincoln County have chosen men considerably above the average to represent them in county affairs; the voters of Rutherford have chosen men somewhat above the average; while in Cannon County the voters apparently think well of the average man.

The two tables, however, do not tell the full story. The writer talked with a number of individuals in each county in regard to the ability of the court and came to the conclusion that the two controlling factors were leadership within the court and the ability of the county judge or chairman. In Lincoln County it was pointed out that a number of leading farmers and business men were in the court. One county official told the writer that the finance committee of Lincoln County represented more wealth than the average corresponding committee in the state legislature. Leadership in county affairs, therefore, came from within the court itself and the influence of outsiders was negligible. Both the present county judge, and the one who retired about two years ago after serving sixteen years, were spoken of highly. Both were said to be good presiding officers and wrangling within the court was reduced to a minimum.

In Rutherford County the outstanding citizens in the court are very few indeed. No one ever hears a citizen of this county boast of the quality of the court. The result is that great pressure is brought to bear at all times on the members of the court by outsiders as will be shown later in this chapter. The county has a chairman elected by the court for a period of one year at a salary of \$800. The chairman before

the present one was a small town justice of the peace who had no other occupation and who was not a taxpayer. He served for only two years. He knew nothing of county affairs and was very weak as a presiding officer. The present chairman has served for four years but an effort to defeat him a year ago narrowly failed. He is a successful farmer and business man and decidedly the largest tax payer in the court, but due to his other interests, the low salary and the uncertain tenure, he has made little study of county government. He is weak both as a presiding officer and in matters calling for legal knowledge such as the administration of estates, guardians and the like. He once told the writer that he could not do anything with that bunch of magistrates, and that he did not see why the county could not be organized as a bank. He was a director of the largest bank in the town.

Cannon County is one of the poorest and most backward in the state. Naturally one would not expect to find a very able court. Here, in addition to the influence of outsiders and a weak county chairman, the county is constantly in the throes of a struggle between Democrats and Republicans. One county official told the writer that the county would be in good shape now if it were not for the fact that the county court was controlled by those "damned Republicans." In Rutherford County the court is controlled jointly by a number of leading citizens of Murfreesboro but in Cannon County "one man rule" still predominates even to the extent that sometimes party lines are broken down. A few years ago one man, the county superintendent of education, was reported to be in control of twenty-seven of the thirty-two magistrates. He was ousted by the circuit court for various violations of the law and with little trouble dictated his successor to the county

court. Since that time, however, his power has been declining and three or four younger men are coming to the front as possible leaders to take his place.

It is generally conceded throughout the state that the quality of the membership of the average county court is low, and that a court is lucky if it has a few men of ability in it to supply the necessary leadership. The reasons one most often hears in explanation of this are the large number of members; the small salary; the disagreeable duties as justices of the peace, the type of campaign, under representation of the larger towns and perhaps election by districts. Each of these factors will be briefly discussed.

The courts range in size from about thirty to over fifty members except in a few of the smaller counties. The salary amounts to \$1.50 a day and five cents a mile if the member lives over five miles from the courthouse. As there are only four regular meetings a year the salary amounts to almost nothing. Each magistrate is usually personally acquainted with every voter in his district, except, of course, in the cities. The campaign for election consists of interviewing the voters in person and loafing around country stores. The election by districts requires each candidate to be a resident of the district he represents, and many districts do not have an outstanding resident. The towns are under-represented and this naturally means that business men, who in many respects are best qualified for such work, are always in the minority. Take Rutherford County for example. Murfreesboro has over one-fourth of the population of the county and pays almost one-third of the taxes, public utilities excepted. Yet it has only four representatives out of a total of fifty-two.

The duties as justices of the peace present two problems. The members of the court who have regular occupations attempt to avoid these duties, while those who seek the job because of the fees usually are not very substantial citizens. A few words about the situation in Davidson County in which Nashville is located will explain this clearly. In the larger cities the office of justice of the peace is very lucrative, especially if the justice is popular. According to the county judge of Davidson County the court of that county reached a low ebb about 1914, the membership being made up chiefly of active justices. County finances were in bad shape. A movement was started to induce a number of the leading men of Nashville to become members of the court. Accordingly a citizens ticket was put out which was in the main successful. Since that time the court has consisted of two groups, one of business men who have no justice's office and the other of those who maintain justices' offices on "J. P. row" on Dederick Avenue and have no other business.

For some years the last group have been accused of all kinds of irregularities, such as extortion, failure to report collections and fee splitting. It was charged that certain justices in their desire to get cases brought to their court had been giving the deputy sheriff part of their fees. The competition had been so keen that the deputies in addition to their fees were getting all of the justices' fee except fifty cents.

This question was taken up by the justices themselves in the April session of 1929 and the county attorney was asked to investigate the charges. The county attorney after a preliminary investigation reported to the court that he had found sufficient evidence to justify a complete investigation and asked for

an appropriation to carry the work further. His report reads in part as follows:

"They (the auditing commission) have found in the majority of instances, that said reports of the deputies (deputy sheriffs) are so incomplete and contain so little information that they are unsatisfactory to definitely determine whether or not a shortage exists. In many instances the deputy's report is copied from the justice's docket. These of course are of no value as a check. Others merely give the number of the cases and the justice's name, but not the name of the defendant or style of the case. Others have no dates and still others have made no report at all. Justices' dockets also show cases not reported by officers."¹

In other parts of the report the justices were charged with extortion. The court made the appropriation for further investigation.

On October 4 the Nashville Banner ran a full page headline announcing that ouster proceedings had been instituted by the county attorney in the circuit court against one of the magistrates and that others would be proceeded against immediately. It should be stated here that the newspapers gave the county attorney valuable support with full page headlines, cartoons, and editorials with such titles as "Thorough Magisterial Probe Needed," "Cut Out the Cancerous Growth," and "Keep the Searchlight On."

Apparently the magistrates had not intended to go so far. On October 7 the Nashville Banner described a meeting in half page headlines as the "Most Sensational Session Ever Held." At this meeting the court

¹County attorney's report to the July term of the quarterly court of Davidson County 1929, pp. 2-3.

after a bitter fight authorized the county attorney to compromise with any magistrate who would pay his alleged shortage to the county and to drop further proceedings. The county attorney, however, with the support of the county judge, and feeling that public opinion was behind him, ignored the resolution of the court and continued filing ouster suits against other magistrates. Certain magistrates seeing that they were beaten tendered checks for their shortages, and resigned, one of them alleging "bad health."¹ Proceedings were instituted against four magistrates in all. There were others in the court who were suspected of various irregularities but as the election was coming up in November it was decided to vote them out of office. A citizens' ticket was accordingly put in the field with the usual successful results for a periodic outburst of reform. A similar investigation in Hamilton County (Chattanooga) failed to produce any results, while an investigation is now being made in Memphis.²

It is conceded by all who have made a study of the problem that the justice's court should be abolished. Whether this is done or not the members of the county court in quarterly session should be relieved of their duties as justices. In the questionnaire referred to earlier in this chapter, the justices of Rutherford and Cannon Counties were asked the following question: If it were legally possible, would you prefer to give up altogether your duties as a peace officer, etc., and retain only your duties as a member of the county court? Of the sixty-three answers received, thirty-seven answered in the affirmative, some with emphasis,

¹Nashville Banner, Oct. 18, 1929.

²The Memphis investigation has already revealed that out of 4,000 suits in justices' courts 3,525 were decided in favor of the plaintiff, or the man who brought the business.

fourteen gave negative answers, while twelve were indefinite or did not answer at all.

The writer attended practically all of the meetings of the Rutherford County Court from 1924 to the fall of 1928. He took notes on many of their meetings and had a stenographer take down parts of two sessions. The attendance was unusually high, although a great many members were late. As the county court clerk expressed it, "They all get there in time to get their pay." During the years 1927 and 1928 attendance was approximately ninety-four per cent.¹ The members apparently feel that it is their duty to see that the interests of their districts are cared for. Furthermore they like to have an excuse to go to the county town on the first Monday of each quarter and get pay for it in the bargain. The law also requires that they attend.

One familiar with the group could usually predict how each member would vote on an appropriation. Of the appropriations for a ten year period from 1919 to 1928, nine members voted for every bill, while one member boasted of the fact that he had never voted for a single appropriation. One could also usually predict what members would take the floor on a given proposition. Some were up on all occasions, others took the floor only at times, while about one-half of the group seldom, if ever, addressed the court.

Perhaps the weaknesses of the court in operation can be best introduced to the reader by the following description of one of the meetings.

On the night of February 7, 1924 the Kiwanis club of Murfreesboro went on record as unanimously favoring the bond issue for roads to be voted on in the county court the following Monday. A committee was

¹Minute Book, Number 5, p. 447 et seq.

appointed to give especial attention to the matter and each member of the club was requested to use what influence he had with the court. The Rotary club had taken similar action the preceding Tuesday night.

The court room, about thirty feet square, situated on the first floor of the courthouse, was the scene of considerable activity by ten o'clock Monday morning. The front part of the room was cut off by a circular railing. In the center of the enclosed space was a platform on which one observed a desk and two chairs, one chair for the chairman and the other for the vice-chairman. In front of the platform was a table for the clerk. The chairman from his exalted position called the meeting to order at a few minutes after ten. In a row of chairs around the railing were seated the magistrates, forty-five strong, in addition to the chairman and vice-chairman. The total number of the court was fifty-two.

To the right of the chairman within the enclosure were seated a selected number of the outstanding citizens of Murfreesboro--a picked group for pressure purposes. There was A. L. Todd, millionaire, loan agent for the New York life insurance company for five states, ex-speaker of both houses of the legislature and chronic candidate for governor. He was director of propaganda. Others among the number were J. Jetton, banker and politician; Jesse Beesley, financier and super politician; P. A. Lyon, president of the Teachers College; the presidents of the various civic clubs, and other lesser lights all primed for a fight with the odds slightly against them at the start. The rest of the room was equipped for spectators with benches of the country church type. The benches were soon filled and as the late comers began to stand just behind the railing it was necessary for every one to stand. As the

meeting became more interesting most of the crowd stood on the benches for a better view. The room was overheated and under-ventilated and the aroma of chewing tobacco was soon in evidence. The writer took position on the top of a radiator where the view was perfect but the heat was terrific.

There were two bond issues up for consideration. The first was for \$300,000 for federal aid highways for the southern and eastern parts of the county. The second was for \$450,000 for state aid roads for the other sections of the county. Part of the court favored only the first issue. Another group was favorable to the federal roads only on condition that the state aid roads be built also. Still another group was opposed to both issues. According to charges made on the floor certain members of the court who lived along the Nashville highway refused to attend the meeting because they already had a road and were opposed to further appropriations, but did not have the face to take such a stand. The pressure group referred to above wanted only the federal roads but were ready to support the state aid roads if such a move became necessary to save their proposition.

The federal issue was first placed before the court in the form of a resolution. After a few minutes of sparring by various members of the court in which "over taxation" was about evenly matched with "progress" a motion was made to hear Mr. Todd. Outsiders commonly address the court upon request. Mr. Todd made a very good speech stressing the usual argument for good roads. He stated that there were others present who had made a study of the problem and that he would be glad for the court to hear them. He suggested Mr. Jetton who was called for.

Between the speeches of the leading citizens the court would form into groups of self-appointed committees and discuss what had been said. Sometimes the confusion assumed immense proportions, the spectators also contributing their share. The chairman would pound for order but order was not always forthcoming. Finally Mr. Todd reached up and took the gavel from the speaker and restored order. From that moment Mr. Todd was acting chairman of the meeting. Handling this crowd was comparatively easy for one who had so much experience in the state legislature. His movements were very skillful. When a member of the court would get up and ask for the floor he would, of course, recognize him. If he was favorable to the proposition Mr. Todd kept order for him; if not, talking and interruptions were allowed. At the psychological time Mr. Todd would call upon another leading citizen. Every one agreed that this was one of the smoothest meetings of the court they had ever seen.

The audience was well packed for the measure. Applause was frequent. There were many, however, in the audience who were unfavorable to the bond issue but lack of organization prevented a good showing. Occasionally one would hear a murmur of disapproval. Thrusts at Todd were most frequent. The writer heard it suggested that he already had a mortgage on half the farms in the county and if the farmers were further burdened with taxation he would have them all within a short time.

Finally the vote was called for. Certain members, who favored both issues, were greatly agitated for fear that if they voted for the federal proposition the state roads would be voted down. Mr. Todd then stated that he would favor both propositions and that he thought every man who voted for the federal roads

should vote for the state roads also. The vote was put. It was a tie. The clerk then turned to the chairman, who relieved of his responsibility, had been enjoying the performance, and told him that he must cast the deciding vote. He looked first at one side then the other of the court and finally at Todd and the other "notables" at his right and said "me, why I vote--yes." The bonds for the state road were then voted by a majority of twenty-seven to eighteen.¹

The following weaknesses were noted in the above described meeting and were further confirmed by later meetings; (1) lack of leadership within the court; (2) the influence of outsiders; (3) incompetency of the chairman; (4) lack of rules of order; (5) failure to make use of committees; (6) localism and logrolling; (7) inability of members to grasp the full significance of the questions before them; (8) lack of definite policies covering a period of years. The first three weaknesses have already been outlined. The others will now be taken up.

On one occasion a member of the court explained that a certain procedure was against the rules of the court. Another member stated that he had been in the court for fifteen years and if it had any rules he had never heard of them. The chairman agreed with the latter stating that he knew of no rules of the body. Of course, there are certain rules established by law relating to such matters as quorum or roll call on appropriation. But general rules of order such as a body adopts for its own guidance do not exist. The only rules the writer was ever able to observe in the Rutherford County court, were that the chairman decided all points, which were not forgotten due to the confusion, subject to appeal to the majority of the court.

¹Minute Book, Number 5, pp. 317-322.

The court makes little use of committees. There are a few standing committees created by law of which the jail committee is a good example. They seldom amount to anything. For special appropriations or bond issues committees are not used as a rule. The customary procedure in such cases is for the clerk to read a resolution calling for an appropriation and for a vote to be taken after a period of discussion.

The members of the court represent their districts first and the county second, if at all. Trading votes is very common. The best example of this is a series of combinations which, over the protest of many educators in the county, resulted in the building of over a dozen high school buildings in Rutherford County. The present depression has shown the folly of such action.

The inability of members to grasp issues before them and the lack of definite policies on the part of the court can be best shown by examining the action of the court on certain special appropriations.

The state in 1927 in conjunction with the Federal government agreed to aid the county in making tests for cattle tuberculosis provided each county would appropriate \$4,000 for covering its part of the expense. At the January meeting of the Rutherford County court in 1928 an appropriation calling for \$4,000 was tabled. At the April session of the same year the measure was again voted down by a vote of twenty-seven to twenty-two. Those favoring the appropriation appealed to certain "leading citizens" and at a special session a week later the proposition was carried by a vote of twenty-eight to twenty. The appropriation was provided for in the tax levy at the July session. In the meantime the legality of the favorable action of the court at the special April session was questioned and it was

finally decided that their action was not in accordance with the procedure outlined by the legislature. At the April session, 1929, a motion to reconsider the tuberculosis appropriation was tabled by a vote of twenty-six to twenty. In July 1929, however, the measure was voted, twenty-one to twelve.¹ Clearly the majority of the court was against this measure but outside influence proved to be the determining factor.

The appropriation for the county farm agent is usually the subject of heated discussion. In October 1927 the court voted down a motion to appropriate \$1800 as the county's part of the agent's salary. The following January, however, the \$1800 was voted. In October 1928 the court again refused to make an appropriation for the agent. In January of the following year, after a bitter fight, the appropriation was cut to \$1000 for the county's part.² The home demonstration agent work had had a similar history with the exception that the county has no agent at this time.

The action of the court in regard to health is also interesting. About 1925 the Commonwealth fund of New York became interested in rural health work. It placed three units for experimental purposes in various parts of the United States. One of these was located in Murfreesboro. Prior to the coming of the health unit several attempts had been made to get a hospital for the town, all of which had proved unsuccessful. The Commonwealth fund was approached in the matter and agreed to build a model small city hospital at a cost of about \$160,000 if the county and city would guarantee

¹Proceedings of the Rutherford County court, Minute Book, Number 5, pp. 501, 513, 518, 535, 671, 579.

²Ibid., pp. 492, 502, 544, 553.

\$5,000 annually for the charity ward. The city immediately agreed to appropriate one-half of the sum. The county court raised violent objections to appropriating the county's part. Some of the opponents opposed hospitals in general. Others said that they could get better service in Nashville. Certain rural members said that since Murfreesboro would benefit chiefly from such an enterprise the town should bear the entire cost. Still others said that while hospitals were good things taxes were too high already and that any additions would become a burden. The measure, however, was voted thirty to nineteen.¹

After the Commonwealth fund had been spent, about \$400,000 in all, the directors were naturally desirous that the county continue the work. It was estimated that it would take \$22,000 a year or a tax levy of ten cents. The county court was asked to include this levy in the annual appropriations at the July session of 1928. Below is a stenographic copy of the proceedings of the court on this issue. When the report of the tax levy committee, including the \$22,000, was presented to the court a motion was made that the items be taken up one at a time. Attention was immediately called to the levy for health work.²

¹Ibid., p. 369.

²Members of the court are called squires. Their initial only is given except where the stenographer failed to get the name, in which case, "X" is used. The report below is just as the stenographer took it. At times, however, as a result of confusion, the stenographer missed what was said. No attempt was made to take what was said when two or more magistrates were talking at the same time. Sometimes the speaker would turn his back on the stenographer and a sentence or two would be missed. This is indicated by a series of dots (...).

Squire DeJ: I move a five per cent amendment.

Squire D: I second.

Squire S: Not long ago they asked for \$7,000. I want to tell you that which they have done in my part of the county. If you grant them what they ask for they will tear up your county. In my part of the county they went to every home, asking if you had a sanitary toilet. If you did not have they told you that your home would become a menace... I can prove every word that I say... I want to work for the taxpayer and in my estimation we are burdening the taxpayer. I wish I could beg you today not to vote this money. All that they want is to get their hands on this money. They do not have the health of the children in mind at all. I beg you, don't give him this \$22,000. Let us have one of our own standing, and not have a man from the north come down here to tell us what to do and get our money... Why should my neighbor provide a sanitary toilet? J. Richards knows it is true... If we must have them, we must tell them what they are to do. Are they going to interview your press... \$22,000, they will break up our homes. (Applause).

Part of audience amused at speech. Speaker becomes angry. Motion by Squire S, seconded by Squire DeJ to make it \$1500. Calls for the director of the health unit, Dr. M.

Dr. M: There comes the question that Short has made. It is a fact that the sanitary toilets are required. The law is not my law. The legislature passed the law and asked the county board to carry it out. I approve of the law, but there is nothing to destroy a house at all. We have no desire to do so. It is true, and I am sorry to say that some people feel as Mr. Short does. However, we had to close up the case

and I ordered notices sent to those who had not built the sanitary toilets... (Several stop him). But whether you approve or not, the county health unit has not done what you accuse it of doing. Some parts of the county have cleaned up and are demanding protection from other parts which have not done so...

Squire T: Do people which build these sanitary toilets know that there is such a law?

Dr. M: In regulation 85 of the State Regulations of March 1, 1927, by L. D. Smith there is to be a health worker, working for four years... Four years ago the Commonwealth Foundation undertook to bear the cost of this work, not asking you for any money during this time, but asking you to carry on the work afterward yourself. I will soon be gone. I am asking you in the name of Rutherford County and of the children of Rutherford County. We have given the typhoid vaccine to 10,000 people, of this number five had the disease, and only one died. Out of 25,000 people not inoculated 237 had typhoid, thirty-one died, thus saving the lives of 100 people in the four years time that we have been here. We have worked to save those lives.

Squire S: Why can't the doctors give this?

Dr. M: Sure the doctor can, but he can't advertise that he is giving the typhoid vaccine. We do this without charge to you. Not another county in the United States has done the work we have done. We have paid for the work we have done \$72,545, rather a small investment. This county was rated by the American Public Health and that man gave us a score second only to one. (Interrupted by chairman).

Squire K: Compare our money with what was spent.

Dr. M: The Commonwealth Foundation paid about \$45,000 yearly and \$170,000 for the hospital. In all five

years it will be \$400,000. I seriously doubt that they would have invested \$400,000 if... (Interrupted).

Squire K: How long will the approximate amount we are asked to give keep the health unit going?

Dr. M: For ... (Interrupted).

Squire S: To whom do you make your report?

Dr. M: I make my report to the State Board.

Squire S: If we furnish part of the funds, should you not make a report to us?

Dr. M: I would be glad to do so. I think if you knew how this money was spent you would think differently about it.

Squire S: If you would make a report to this court, make it a business transaction, we would know more what to do about it. We can't transact business unless we know what the money goes for.

Dr. M: I shall be glad to do so. I... (Interrupted by several magistrates). We have spent the Commonwealth Fund. This \$22,000 is for the continuance of the work. You will...

Squire S: If you want this to be two per cent...

Squire C: (Interrupting Squire S) The majority of the people don't know anything about the work... (Interrupted)

Several talking and asking questions at the same time.

Squire S: They just want to get their fingers into this money.

Dr. M: But Squire S, you don't understand...

Squire K: I think you ought to send all these magistrates to the night school first. We don't feel that a great deal about the work is known.

Dr. M: All of you understand it must either be \$22,000 or none. I... (Commotion).

Squire S: Calls for vote on motion. Confusion continues.

Squire M: Is there anything before the house?

Squire K: The Commonwealth Fund has been of long standing. They came to our county not asking for anything, but with the idea of giving us something... (Chairman raps for order). With all the profits we are making from their work having been done up to this time and since I have been a magistrate, I believe that this work should be carried on for five years and now to stop it, I don't think it possible. Will Rutherford County let this opportunity pass? They realize the value of the health and with the small charge it is undoubtedly out of the question. If we fail to do this... Your county can't afford to fail on the work it has done. I think just to be plain about it we ought to do what you say if... and stand by a cause like this. I am not surprised... but I think it cannot be valued and the amount we are asking you to appropriate is small... (Several contend for the floor).

Squire DeJ: I am convinced that health work is humbug. I have tried to see where this health work is worth a dime... It is guess work. They were asked to help a man in our part of the county that was sick, he would be dead before midnight. This man they were asked to help was a poor man. They refused to do so If I had ordered the health from the north country, I would have sent it back a long time ago. I say save that \$22,000.

Squires S and M contend for the floor.

Squire M: I ask to express my feelings. Squire DeJ and I are in the same boat. I am surprised that he says all that it is, is humbug. They have done more than we know anything about. Squire DeJ told me this morning that his baby had the colic. (Laughter). We have reared girls, thirteen in all. All well, with

the help of the health unit. I love that woman because she came there and advised with my wife how to rear them babies, and I have not been up a single night. I love her, but not better than I love my wife. She loves me too. (Applause and laughter). I told my wife there was no use sitting up, and I was going to bed. I attribute their health to the work of the health unit.

Squire DeJ: Did you feed them on cow's milk?

Squire M: We fed them according to the nurse's directions. I am willing to pay tax for this. You can't get anything out of life with your health gone. I believe that people who have had typhoid had rather give up their wealth. With all due respect and regard to the Rutherford County Court it is on account of our own negligence in not taking precautions against disease. I think we but laugh oftentimes at health. Cut the school funds before you cut this... (Applause). Whether your man comes from the north or the south, what is the difference as long as he can help the cause... (Applause). Our politics may not be the same but we will have the north as long as we live. Dr. M. came by my place several days ago. He is from the north. I do not object. I am willing to pay the tax, but what about the one who is unable? (Applause).

Squire G: Line has nothing to do with it, they are our people, but we forget how the Republic Government was governed. From Madison to Garfield they are our people. We love them all.

Squire S: This health unit is nothing new. That is one of the health rules where these men come from. I call for vote on my motion. (There were two motions, one by Squire S, and another to table Squire S's motion.)

Squire R: What about building these state units while we are about it? I call for question, to make it \$1500.

Vote on motion to table. Yes: nineteen; no: twenty-one.

Motion to table declared lost. Confusion. Several try to make motions.

Squire B: I make a motion to allow them five cents.

Squire R: You can't put another motion when there is one before the house. You can't vote on the \$1500.

Squire S: I make the motion as an amendment.

Clerk calls roll for Squire S's motion for \$1500.

Squire M interrupts and makes motion to make \$15,000 instead of \$1500 and calls for the rule of the chair.

Chair rules for a roll call on Squire S's motion for \$1500.

Yes: twenty-three; no: twenty-six. All talking.

Squire B: I make a motion to make it five instead of ten.

Squire X: It will take ten or nothing. (Applause).

Squire B calls for motion.

Squire K: It is up to Rutherford County to maintain this great work. If they want the work they have given it. They have sent them to us, you accepted this work, and approved it, you had your man work... (Interrupted).

Squire D tries to talk but no one is listening.

Squire S calls for question. Commotion.

Chair calls for order. Calls for question.

Squire K: A question of approval of ten cents for carrying on this work. That is the question.

Nobody was paying any attention to what Squire K was saying.

Squire DeJ: Seconds motion made by Squire B for five cents.

Motion made to table it.

Table Squire B's motion by standing vote.

Yes: twenty-two; no: twenty.

Squire T: I make a motion to allow the \$22,000. We must have ten per cent or nothing.

Vote on motion.

Yes: twenty-seven; no: twenty-two.

The court then took up another matter. According to the present health officer, there is little chance of the court abolishing the health department, but there is always danger that the annual appropriation will be reduced.

There can be little doubt but that the county court is one of the weakest links in the system of county government. Some means must be devised to make membership in the body appeal to intelligent, successful men. To do this a number of changes are necessary. First, the size of the court should be materially reduced. In many states the county board has as low as three members. Second, the members of the court should be relieved of their duties as justice of the peace.¹ Third, something should be done to give the business element of the county better representation in the court. Election by a general county ticket rather than by district might help to solve this problem. Increase in salary, wider powers, and more frequent meetings of the court are a few of the many other suggestions that might be made.

¹Arkansas and Kentucky are the only other states where the justices of the peace still constitute the county legislative and administrative authority, and Kentucky allows counties to substitute three commissioners for the county court. (Carroll's Kentucky Statutes, 1922, ch. 52; Arkansas Digest of Statutes, 1921, sec. 2279.)

CHAPTER V

FINANCIAL ADMINISTRATION AND BUDGET

In 1922 the bonded indebtedness of the counties of the state totaled \$43,528,000; that of incorporated places was \$65,686,000; that for all other civil districts was only \$4,981,000. Road building has increased the indebtedness of counties rapidly since 1922. This has been partly offset, however, by the fact that the state in 1929 assumed the obligation for part of the county road bonds. Comparative data for the bonded indebtedness of the state, counties, and municipalities at present is not available. In 1916 the counties raised from the general property tax \$9,029,374, while in 1922 the sum had reached \$17,504,715. In 1928 it amounted to \$23,431,159. During the latter year state taxes from all sources amounted to \$39,644,158. These figures are sufficient to show the importance of the county as a financial administrative agency of the state.¹

The following outline will be followed: (1) Methods of assessment; (2) budget making; (3) purchasing and supervision of expenditures; (4) bookkeeping and auditing.

Methods of Assessment.— The system in brief is as follows; the tax assessor begins to make out his list on January 10, and is required by law to turn the list over to the county court clerk on or before

¹Statistical Abstract of the United States. 1926, p. 218; Biennial Report of the State Tax Commissioner, 1921-1922, pp. 266, 302; 1929, pp. 26, 218.

the first Monday in June. The county equalization board meets the first Monday in June and sits for from six to twenty-five days depending on the size of the county. The state equalization board meets every two years on the second Monday in July and equalizes the county assessments by a horizontal raising or lowering. The assessor does the work for the entire county. Formerly there were district assessors, but they have been abolished. The county equalization board at one time consisted of the district assessors, but is now composed of five members elected by the county court, with the exception that in counties having a city of from five to sixty thousand population the city council shall choose one member, and in counties having a city of over sixty thousand population the council shall choose two members. The personnel of the state equalization board has undergone repeated changes since 1907. At present it consists of the governor, treasurer, secretary of state, commissioner of finance and taxation, and the superintendent of taxation.¹

Perhaps the weakest link in the system is the county assessor. He is elected by the people for a term of four years. His election is often on the basis of popularity or sympathy rather than efficiency. The salary is comparatively low. It is fixed by the legislature for most counties and varies from \$300 to \$5,000. The average is about \$1,000. Assessors are usually farmers. Even where they have a fair knowledge of farm values their knowledge of city property is limited. The report of the Committee to Investigate Assessments and Taxation, State of Tennessee, 1915, reads in part as follows:

¹Code (1917), secs. 785, et seq.

"Though no words in the assessment law are more frequently used than 'actual cash value' nothing, in fact, is so rare as an actual-cash-value assessment... These officials (assessors) freely admitted to this committee that, despite their official oaths, taken not only before the beginning of their work, but after its completion, property, instead of being assessed as required by law, at its actual cash value, was assessed by them, in the case of individual properties, all the way from 10 to 80 per cent... We would not have it thought that we in the slightest degree impugn the character of our county assessors as a class. As a rule, they are men of as high character as the average in their communities. In many counties they are paid wretchedly... Under the law they are allowed only four months and twenty days in which to make their assessments. They must begin work in the dead of winter, when roads are frequently impassable. They are required to go on every piece of property... The fact was brought out in the investigation before this Committee that in many counties the County Court Clerks received more copying the tax books than did the assessors for their laborious work of assessment... Because of the fact that assessment work is arduous and difficult and is poorly paid, too many assessors have taken the easiest way to complete their tasks and have merely copied the old books. The assessor must constantly resist the efforts of thrifty tax dodgers who dog his footsteps with pleas for reduction. It was reported to this committee that an investigation of the assessments in several

counties in one of the grand divisions of the state showed that the property of estates of widows and orphans, where the taxes were paid without question were more highly assessed in proportion to value than any other classes of property. It is the general consensus of opinion that the larger property owners throughout the state do not pay on assessments as high in proportion to real values as the owners of small farms and small homes in cities. This is not due to any willful discrimination on the part of the assessors, but because the value of smaller properties is more easily arrived at than that of larger properties, and also from the fact that the assessor has more pressure brought to bear on him by the larger property owners than by small property owners... The so-called 'Boards of Equalization' appointed by the county courts and the municipalities, do not help matters. They frequently prove only boards of reduction..."¹

That the State Equalization Board was not properly functioning is indicated by the following:

"Differences in valuation of a marked nature exist in counties of the same grand division, and often between close neighbors. For instance, in Greene County (east) the value of all farm property, as shown by the Federal census of 1910, is about five times as great as the assessment of acreage for taxation, while in Campbell County (east) the assessment was nearly as much as the value of the farm

¹The Report of the Committee to Investigate Assessments and Taxation, State of Tennessee, Nashville, 1915.

property. In Hamilton County (Chattanooga) the assessment was a little more than the value of the farm property, while in Knox County (Knoxville) it was only one-half as much. In Cumberland County the assessment was about four-fifths the value of all farm property, while in White County (adjoining) it was only one-fourth as much."¹

The inequality between counties has been partly overcome by the efforts of the state equalization board since 1919, and by a rapid decrease in the state rate on general property. The tax assessor, however, has seen no change. The county attorney of Rutherford recently told the writer that the assessors were not qualified, that they had no idea of the value of industrial property, that their deputies often did not know just what their duties were, that the lists frequently were made out from old reports and that often the property was assessed to the wrong person.

A typical case of underassessment due to local influence will now be given. About ten years ago the city of Murfreesboro adopted a type of the manager form of government. Since that time the city has experienced considerable growth and has spent large sums on streets, waterworks and a sewerage system. Naturally it has been pressed for funds and became dissatisfied at the lax methods of assessment of property by county officials. Finally it appealed to the legislature and was granted power to make its own assessments. According to the city clerk most of the property in the town was left at the same rate as that fixed by the county but changes were made in instances of gross under-evaluation. He referred to about ten such cases. The

¹The Report of the Committee to Investigate Assessments and Taxation, State of Tennessee, Nashville, 1915.

most glaring one was a garage assessed by the county at \$7,000. The clerk stated that he saw a certified check for \$27,500 for the building which the owner had refused. The city raised the assessment to \$17,500. The county then raised its assessment to \$9,000.

The system used by the city was in direct contrast to that used by the county. A committee of three was appointed. One was one of the oldest citizens of the town, who had owned a large amount of real estate for a number of years; the second was a lumber man who built and sold moderate priced homes; the third had been a clerk in the city office for years and was acquainted with every piece of property in town. They zoned the city and visited every house and lot before making an assessment.

The appointment of a tax assessor or commission by the county legislative organ would probably result in more just assessments. Although the state has relinquished its interest in the general property tax to the local units, its policy of grants in aid to county schools demands uniformity in assessments if an equitable distribution of state funds is to result. It is recommended, therefore, that state supervision over county assessments be extended so as to include mandatory powers over local assessors instead of those of a purely advisory nature. This step has already been taken in probably half of the states.¹

¹See the chapter on public finance in the monograph on Recent Trends in Public Administration (in preparation) by the President's Research Committee on Social Trends; Schuyler Wallace, State Administrative Supervision over Cities in the United States; H. L. Lutz, State Tax Commissions (Boston, 1918).

Budget.- The word budget was hardly known in Tennessee law before the administrative reorganization bill of 1923. The State Tax Commissioner in his First Biennial Report, 1921-1922, strongly recommended a county budget system. His report reads in part as follows:¹

"Counties can make no reduction in their appropriations for highways and for schools, and candor compels the admission that these two items represent the bulk of county expenditures. Nevertheless, it is true that county appropriations are oftentimes recklessly made and imprudently and unwisely spent especially with respect to the general operating expenses of the county government.

A number of remedies have been discussed by students who have made a very thorough study of county finances. The most feasible suggestion yet made, however, appears to be the establishment of the county budget system and the creation of a budget commission in each county composed of the best business men in the county, making it their duty to make up a careful budget of the needs of the county after the most exacting and scrutinizing investigation and to publish this budget for a given length of time in advance of the meeting of the county court and the fixing of the county tax rates."

The following procedure is usually followed in Rutherford County. At the April meeting of the court the superintendent of education presents his budget which has been approved by the county board of education. This is the only official required by law to

¹pp. 323-24.

present a budget. There is nothing to keep the court from asking other officials to present estimates of their needs for the coming year. Such a procedure, however, is not customary. Sometimes the court reduces the amount asked for by the superintendent of education. The school budget was materially reduced in 1927. The superintendent of schools then announced a general salary cut. A number of the best teachers in the county threatened to resign with the result that so much pressure was brought to bear on the court that at the next session the original budget was restored. On the other hand, in 1929 \$28,000.00 was added to the school budget by the court as a result of logrolling for three new school buildings. When this measure was passed, one member of the court who had vigorously opposed it made a motion that everybody be given everything.

At the April session a tax levy committee of three members is appointed by the chairman. This committee is not mentioned in the code and its recommendations are therefore not binding upon the court. In actual practice the committee usually confers with the various officials charged with the direction of the institutions of the county and the county chairman. Members of the court are also consulted and an attempt is made to gauge the general sentiment of the county.

Sometimes the tax levy committee is guided by the chairman or by the outside influences. On the other hand, some committees are conscientious and devote a great deal of time to their work. But lack of authority to get information, and lack of knowledge of finances and law often handicap them. In 1928 the committee was especially energetic only to discover that their recommendation for taking care of the county's floating debt was illegal.

The committee makes its report to the July session of the court. This is usually the stormiest session of the year, though the April meeting is often the scene of a bitter struggle over the school budget. Instead of levying one rate for all county expenditures, separate rates are levied for each appropriation, as fifty cents for elementary education, twenty-five cents for high schools, or twenty cents for roads. Each item is taken up separately by the court.

This system results in many irregularities. Almost invariably there is a deficit at the end of the year. One of the causes of the deficit is the fact that the court assumes that all taxes will be collected. As a matter of fact every year there are some taxes which are not collected. This should be guarded against by making an estimate of the amount of taxes that will not be collected by examining the trustee's books for the past few years. Another cause is that occasionally the state board of equalization lowers the county assessment after the tax levy has been voted. This happened in Rutherford County in 1927. Perhaps the most common cause is that the superintendent of education fails to accurately estimate his budget or his estimates are reduced. The result is that he comes up short during the last month or two of the school year and the court is confronted with the question of closing the schools or making up the deficit. The local communities are all clamoring for better schools while the magistrates seem to think that the school budget should remain stationary.

This deficit at the end of the year causes the courts a great deal of worry. In fact it is entirely too complicated a financial question for the average county squire. According to law no money can be borrowed or paid out by the county unless it has first

been appropriated in a legal way. The county courts, however, have customarily brushed aside legal restrictions and have issued interest bearing warrants, or borrowed money, or in certain cases drawn upon sinking funds, in order to meet deficits for which there has never been an appropriation. As a matter of fact the Rutherford County court used the Normal School bonds sinking fund in this way.

The following much abridged stenographic report of the proceedings of the Rutherford County court, supplemented by notes taken by the writer, will illustrate the inability of the court to solve difficult financial questions. This was a special session in April 1928. The superintendent of education was asking the court to take care of a \$21,000 deficit, Of this amount, \$13,000 was caused by a reduction of assessments after the tax levy had been voted. Seven thousand dollars was the result of the superintendent underestimating the cost of certain school buildings. The remaining one thousand was evidently put in for good measure.

The court was called to order at ten o'clock. A quorum was declared present, Squire Wilson led in prayer, and the chairman declared the house open for business where they left off last Monday.

County Court Clerk: I have here an order for \$21,000 for schools...

Chairman: Gentlemen we have the county attorney and he has a report to make on the legality of this whole thing. We shall hear from him.

County attorney (in answer to several questions): I think the members of this court have been violating the law when they borrow money to make up a deficit if this money has not been voted in the budget.

Clerk: Gentlemen this \$13,000 was voted in the budget last year but the State Board of Equalization reduced

the assessments and the tax rate failed to raise the amount specified by the budget. The other \$7,000 is what is required to run the schools over and above the budget. It has never been appropriated in the budget.

Attorney: In answer to that question the county board of education has a right to issue warrants to the amount of the budget but no more.

This is followed by an argument over a motion to make the attorney's report a matter of record of the court.

Squire X: I make a motion that the county board of education be instructed to issue warrants to take care of that \$13,000.

Other questions are fired at the attorney.

Clerk: Now I have not got much education myself and I am not against schools but I just want to tell you that we have been borrowing money long enough. I just talked with the deputy trustee and he says that we owe over \$100,000 and have made no provision for paying it back. The county board was given permission to borrow \$10,000 and no record was made of it and it has never been taken care of. When you add that to what we already owe it will be \$100,000. Is that right Mr. Chairman?

Chairman: It will be over that amount.

Clerk: I want to tell you that the state is the whole cause of this. They have been making us match two dollars for one and then they tell us how we have to do to get that one. Old Harned (State Commissioner of Education) is the cause of it. He says if you don't do this I won't give you any credit. He made us tear down some good buildings and put up the kind he wanted. Take the Rockvale building. It was good enough for anybody. Maugans-Bell and Company (contractors) told me that you could not build a building

like that now. No telling what it would cost. But Harned says that it is not good enough and makes us tear it down. And some of these other buildings were about as good. If we are going to quit all this business, today is the day.

Chairman: I think it is time we are quitting this...

Squire G: We ought to borrow money so that these teachers won't have to wait for their money. Just as sure as we issue warrants and have no money to pay them these sharks around here are going to buy them up for little of nothing. Over here in Cannon County there are warrants two years old outstanding. Those teachers over there can't hardly sell one, and when they do they can't get nothing for it. That's not right. But this court says it is a crime for us to borrow money to pay these teachers. We have done worse things and we have been doing that for a long time. We do it every year...

Interrupted. Chairman raps for order.

County attorney is further questioned.

Squire R: I make a motion that we suspend schools in this county for twelve months. I am personally opposed to this but I want to get it before the house.

Note. There were certain members of the court who favored suspending all schools and road building till the county was completely out of debt. None of them, however, could get up their courage to introduce such a resolution.

Chairman: I rule that motion out of order.

Clerk: Well, what are we going to do about this order--

\$21,000 to finish the schools and we owe \$13,000?

Squire X: We haven't got to do anything about it.

Motion made to adjourn. Chairman raps for order.

Squire F: I make a motion to levy a tax to take care of the \$13,000 deficit.

Chairman: I rule that out of order.

Squire W: The county board shall not exceed the budget and it is a misdemeanor. There has been more extravagance in this county in this year than there has been for the past thirty years. I believe in schools but I do not believe in taxing the people to death. The schools could be run more economical.

Discussion by groups.

Squire G: It is necessary for somebody to make a proposition. We have never been in such a helpless condition before. Why not put in the next year's budget?

Chairman: The budget has already been passed. It was voted last Monday.

Squire D: I want to know if you are authorized to include in the budget that \$28,000 for school building?

Attorney: The budget is legal as it stands.

Squire D: The county board of education did not ask for that \$28,000 to go in the budget for new buildings...

Chairman: But the magistrates voted for it and that makes it legal. This \$13,000 will have to be provided for by the court.

Attorney: In view of the fact that there is no money on hand the county can, if it wants to, issue warrants and pay interest on them till they are paid.

A motion is made that the county issue warrants.

General discussion follows. A call is made for the superintendent of education.

Superintendent: I wish to say one word to this county court. I have come before you a number of times and you have always treated me with courtesy... Of course, we have all made mistakes... Unless I get the \$21,000 to finish out this term I will have to close the schools tomorrow. The court has been asked to

do this for years... We were necessarily urged to build some buildings in this county. You are business men, and you know that when you get to building you can't figure just what it will cost. We missed it six or seven thousand dollars. We are going to dismiss schools tomorrow if the court does not come to our rescue...

The court then took up the bovine tuberculosis question and after a short discussion adjourned. At the afternoon session a motion was made that the court appropriate the \$7,000 that was not included in the budget on the ground that it had been done every year. The chair ruled the motion out of order. An appeal was made to the court but the chairman was sustained by a vote of 23 to 11. The court then voted to issue warrants to the sum of \$13,000, the deficit in the budget, and to pay seven per cent interest on these warrants till they could be paid. The court adjourned without taking action on the \$7,000. A few days later the writer asked the county superintendent what he was going to do about this deficit and was told that it had been worked out. He did not say how. The schools, however, ran the full term and the money was gotten in some way though the writer was never able to find out just how. It was probably borrowed by the county finance committee.

According to the county attorney, the floating indebtedness of Rutherford County on January 1, 1929 was \$116,000. The attorney stated that he tried to get the magistrates to let him draw up an enabling act authorizing the county to issue bonds for the indebtedness. The magistrates positively refused. There are two things the magistrates have a hard time explaining. One is an increased tax rate and the other is a bond issue to cover a floating indebtedness. The bond

issue, however, must come and at the special session of the legislature in 1929 the county was authorized to issue bonds not to exceed \$200,000 to pay its floating indebtedness.¹

During the general session of 1929 special acts were passed authorizing seventeen counties² to issue bonds to take care of outstanding debts, while fifteen counties³ were given the authority to issue indebtedness notes or warrants. During the special session of 1929 five counties⁴ in addition to Rutherford were authorized to issue bonds to cover outstanding debts, while one county⁵ was allowed to issue indebtedness warrants.

A few of the larger counties in the state appear to have their budgets worked out on a satisfactory basis. Davidson County (Nashville) appears to be on a sound financial basis. The county judge prepares the budget. He has a reputation for being a good lawyer and a financier of some ability and impressed the writer very favorably in an interview. He appeared thoroughly familiar with all phases of the county's finances. Such cases, however, are exceptions.

Prior to 1929 little had been done in the direction of improvement of county budgetary procedure.

¹Private Acts 1929, extra session, chap. 71

²Campbell, Cheatman, Crockett, Fentress, Hamilton, Hickman, Lauderdale, Marion, McMinn, McNairy, Montgomery, Obion, Scott, Sumner, Tipton, Wilson, William-
³son.

Blount, Carter, Dickson, Hamilton, Henry, Houston, Lincoln (two acts), Macon, McNairy, Morgan, Moore (two acts), Rhea, Sullivan, Weakley (two acts), and
⁴Wilson.

⁵Bradley, Cocke, Lawrence, McMinn and Sevier.
Hamblen.

During that year five counties¹ had special acts passed by the legislature regulating their budgets. One county² uses the county judge or chairman for the preparation of the budget; one makes use of a commission composed of the county judge and the two other persons chosen by the county court;³ in a third the commission consists of the county judge, the trustee and three members chosen by the county court;⁴ while in two counties the commission consists of the county judge and three members elected by popular vote.⁵ The commissions generally are given power to examine all branches of county government and to compel the attendance of witnesses. In three counties⁶ the report of the committee must be published immediately by the county judge or chairman in a local newspaper. The action of the commissions is advisory in three counties⁷ while in two⁸ it is binding with certain exceptions. In general, the budget once passed cannot be changed and it is a misdemeanor to exceed it. The salary of the commissioners is interesting. In one county⁹ it is \$25 a year, in another¹⁰ it is \$7.50 per day, while in still another¹¹ it is \$3

¹Dickson, ch. 618; Lake, ch. 630; Marshall, ch. 22; Obion, ch. 372; Smith, ch. 309.

²Smith.

³Marshall.

⁴Lake.

⁵Dickson and Obion.

⁶Dickson, Lake and Obion.

⁷Marshall, Lake and Smith.

⁸Dickson and Obion.

⁹Marshall.

¹⁰Obion.

¹¹Lake. Lake and Obion Counties are adjoining.

per day. Ex officio members, as the county judge or trustee receive no additional compensation.

A student of public administration will immediately wonder just how successful these commissions will be. In one county only did the writer receive a report concerning the success or failure of the commission. A high school principal from Dickson County reported that considerable friction had already developed between the county court and the commission and that there was some talk of abolishing the latter. This is not surprising for two reasons. In the first place, the chairman or judge should prepare the budget. If he is to have help it should be of his own choosing. Furthermore the people are the last group in the world to choose a budget commission. In the second place, it will be practically impossible for any individual or commission who has wisdom enough to prepare a sound budget to work harmoniously with the average Tennessee county court as at present constituted.

Tennessee might do well to follow the lead of other states in regulating local budgets. Over half of the states now have laws requiring certain or all local subdivisions to have budgets, while in at least fourteen of these there is some form of state supervision, though in many cases it amounts to little more than a gesture.¹

Purchasing and Supervision of Expenditures.- A few counties in the state have central purchasing commissions. The Private Acts of the legislature from 1917 to 1929 show that purchasing commissions were created in three counties while in one county the county judge was made purchasing agent. In another the budget commission was given supervision over purchases. In one county, however, the commission was abolished two years

¹The President's Research Committee on Social Trends, op. cit.

after it was created. Recently the Davidson County Commission has come under fire for favoritism in awarding contracts.¹

According to the register of Giles County, with whom the writer talked in June 1930, that county tried a purchasing commission for a time but gave it up as being unsatisfactory. This commission consisted of a representative of each of the three banks of the county town and a permanent secretary, the latter at a salary of \$25 a month. Considerable friction developed between the commission and the county officials especially in the matter of office supplies. Finally it was decided that the commission was not saving anything for the county, but was costing \$25 a month. It was discontinued. It might be added that the bankers from the start were lukewarm toward the proposition.

Centralized purchasing has therefore made little progress in the Tennessee county. As to whether the average county is too small an area for successful centralized purchasing or whether the failure is due to general county backwardness the writer is unable to say. Perhaps both. It seems reasonable, however, that some scheme might be devised for reducing costs of supplies.

Rutherford County has never had centralized purchasing. Each department spends the money appropriated for it and each office buys its own supplies. In cases where money has been previously appropriated by the court, an order properly signed by the department making the purchase is presented to the county judge

¹Davidson, Private Acts 1917, ch. 239; Dekalb, Private Acts 1919, ch. 256; Jackson, Private Acts 1923, ch. 32; Marion, Private Acts 1919, ch. 20; Marshall, Private Acts 1929, ch. 22; Dekalb, Private Acts 1921, ch. 327.

who in turn makes out a warrant on the county. There are two exceptions to this rule. Warrants for school purposes are issued by the county board of education and not by the county judge, while in these counties which have a department of health the funds appropriated by the county court are turned over to the state and all county health warrants are issued by the state.

The question arises, first, as to how much authority the county judge has in refusing to issue warrants when orders properly signed are presented to him, and second, to what extent he actually exercises the authority given him. The code¹ states that the county judge or chairman shall audit all claims against the county. Where money has been appropriated by the court for a specific purpose and where those entrusted with the spending of this money sign an order in a legal way the judge has no other alternative but to issue the warrant. One can readily see, however, that many doubtful cases will arise. As to how much authority the judge or chairman will exercise in such cases depends upon the individual in office. In Rutherford County and many others the judge or chairman gives little attention to such matters.² In other counties, especially those that have a county judge who devotes his full time to the office, the judge examines all claims against the county with considerable care.

It is in spending the general county fund that the county judge has most authority. In 1928 the tax levy

¹Code (1917), sec. 517 (4).

²The county chairman of Rutherford County said that he did not feel that it was his business to be always looking into what other officials were doing; that the people had elected them to run their offices and not him.

for this fund in Rutherford County was sixteen cents, which yielded approximately \$35,000. In addition to covering general operating expenses for the county this fund is also used to cover certain special appropriations such as the upkeep of the poorhouse and the county farm agent.

The following incident will illustrate one phase of the supervision by the county judge or chairman over the spending of the general county fund. One official in a certain county, whose name the writer agreed to withhold, states that due to unforeseen difficulties the appropriation for his department fell short almost \$1,000. When his money had given out with some months to go before completing the year he went to the county chairman. They decided that it would not be wise to bring the matter to the attention of the court at this time. The chairman told him to continue making purchases and issuing orders and that he would continue to issue warrants on the general county fund. At the close of the year when the time came for this official to make his annual report to the court he listed all purchases just as they had been made but purposely made the total exactly \$1,000 less than it should have been. Not a member of the court observed his deficit. When asked if this would get by the auditor he said that it might, but that if it did not he thought it could be taken care of. Of course, this entire proceeding was illegal and it was the duty of the chairman to refuse to issue warrants after the appropriation had been exhausted. The defense offered by this official was that "that crazy bunch of magistrates did not know anything and would have caused trouble if they had discovered the deficit."

The writer has heard considerable complaint in Rutherford County recently in regard to excessive cost

bills against the county. This is especially true in regard to fees of the sheriff and his deputies. The county attorney told of certain specific cases where officers had collected fees on the county which were on their face clearly illegal. He estimated that the county was losing over a thousand dollars a year in this way.

An interesting story was being told in Bedford County a few years ago immediately after the county had changed from county chairman to county judge. It seems that a person had been sent to the county road for passing a "cold check." The man who had cashed the check went to the county judge and demanded that the county reimburse him since the prisoner was now working for the county. The new judge stated that he could not legally do so. Whereupon he was told that the former chairman had regularly done this in such cases.¹

In the case of sundry expenses such as fuel, printing, and the like the material is purchased by the various departments, sometimes with, but often without the consent of the county chairman. In such cases each person furnishing the material must make application to the monthly court sitting last before the meeting of the quarterly court at which the appropriation is to be made. The clerk keeps a book for all such appropriations. At each meeting of the quarterly court this sundry list is presented to the magistrates for their approval. A brief description will be given of the reception which one of these typical lists of about \$2000 received in the court.

One hour and five minutes of the court's time was taken up. Only nine members took part in the discussion. One man was on the floor nine times, another

¹The writer did not verify this story.

seven times and the two others four times each. Nine minutes were spent on a doctor's bill of eight dollars. One member said that there was something wrong about this; that a lunacy proceeding was only five dollars and if it was for two proceedings it should be ten dollars. No one was able to explain the eight dollars. The chairman could not; neither could the clerk. A motion was made and carried that only five dollars be allowed. After the meeting had adjourned it was discovered that the three dollars was for a visit to a prisoner in jail. It was included in the next list of appropriations.

Another member said that the printing bills "looked might large to him." The clerk was asked for an itemized statement of these bills. He had them brought up from his office. The word "delivery" appeared in a number of places. The delivery charges ran from eight to twenty-four cents. The clerk stated that these charges were probably parcel post charges for the big record books. One member made a motion, which did not get a second, that the delivery charges be struck out. Another made a motion that no more orders be given these companies if they would not pay transportation charges. This required seven minutes but was dropped when a member found what appeared to be a more vulnerable attack. He wanted to know why the court should be presented with a coal bill in July. It was explained that April was below normal and that some coal was used in May. He said that he would be satisfied if the October bill had no coal on it.

Attention was then called to the county attorney's bill of \$135.00. One member called attention to the fact that the court was paying him \$50.00 a year and that he would like to know what that \$50.00 was for. The clerk explained that the \$50.00 was a

retainer's fee for such matters as advising the court on the law, while the \$135.00 was for condemnation suits for highways. Still the magistrates were not satisfied and the attorney was sent for. After an interval of about five minutes the attorney came in and explained that the fee was for condemnation suits, and that if they could find a lawyer in town that would have done the work for twice that amount he would like to see him. This satisfied the court and the appropriations were voted with the exception of the three dollar doctor's bill.

The letting of contracts is another weakness of county government. Charges of favoritism and inefficiency are often heard. A typical case from Rutherford County will be cited. A committee of Murfreesboro citizens was appointed to let the contract for the Nashville highway. When the contractor finished the road he had not constructed a bridge over Stone river. He stated that the contract did not call for a bridge. The members of the committee were sure that the bridge was included. An examination of the contract showed that the contractor was right. One member of the committee told the writer that he was absolutely certain the contract he read called for a bridge. The county was forced to appropriate over \$30,000 for the bridge, though it was generally conceded that the amount paid the contractor for the road was high even had the bridge been included. Such carelessness on the part of counties undoubtedly was one reason why the state took over for construction and maintenance all important roads.

Bookkeeping and Auditing.— The writer, in the counties which he visited, found a decided lack of uniformity in bookkeeping. In some counties they were still copying deeds in longhand. Two distinct systems

of indexing were used by the registers. Some of the trustees kept their poll tax receipts and general property tax receipts separate while others did not. Some completely exhausted the blanks in one book before going to another and could tell almost instantly how many receipts had been issued so far that year. Others issued receipts from first one book and then another. It took one trustee over thirty minutes to tell how many tax receipts he had issued so far that year. Many officers had no special place for keeping their books and would have to hunt all over the room for them.

One of the state auditors stated that bad bookkeeping was responsible for a large part of the small shortages of county officials. He went on to say that one could find almost every kind of bookkeeping in these offices and that he actually found one trustee who had no cash book or ledger but simply depended on his bank statement. Incidentally this individual checked up \$10,000 short. The trustee handles a number of different funds. Each fund should be kept to itself and balanced daily, and no warrants should be paid out of a given fund unless there is sufficient cash in that fund to take care of the check. This auditor stated that in many cases funds were not kept separate and warrants were honored so long as there was any cash at all in the trustee's hands. When asked why the state department of finance and taxation did not require uniform bookkeeping on the part of county officials, he answered that the state auditing department was so small that it would be impossible to introduce such a system except by degrees. This very thing, however, had been attempted with the trustees in about one-half of the counties. They were using a special type of ledger and cash book and were balancing all accounts daily. It was working well in most counties,

but in some cases the officials found the system too troublesome and had gone back to their old habits of balancing when they felt like it.¹ A uniform system of accounting for all county offices, made compulsory by the state department of finance and taxation, is one of the greatest needs of the county at present. Such steps have already been taken in over half of the states.²

The auditor is supposed to be the agent of the legislative body to see that appropriations are used according to law. As a matter of fact about all the average auditor does in a Tennessee County is to see that the books balance. He is supposed to see that all warrants have been legally drawn on the proper funds and report if such is not the case. Since it is customary in many counties, however, for the trustee to honor warrants so long as he has any revenue at all, and since such procedure only does not alarm the county legislature but is often suggested by its members this phase of auditing amounts to little. No wonder then that the state auditors uncover so many shortages and errors in bookkeeping. The auditor in many counties is often under the control of the county judge or the county "ring." He is therefore not really an agent of the legislative body.

¹The code authorizes the State Department of Finance and Taxation to install a uniform system of accounting for all county offices handling state funds. The probable reason why the department has gone no further is the fear of offending county officials, especially those with political influence.

²The President's Research Committee on Social Trends, op. cit.

Reporting, as far as the public is concerned, is of little importance. The trustee is required by law to publish a statement of the financial condition of the county in the nearest newspaper once a year. The county court clerk must post annually on the outside wall of the courthouse a balance sheet of revenue and disbursements of the county for the preceding year. The county judge is required to submit a semiannual report (in some counties quarterly) on county finances to the court. In some of the larger counties this report is sometimes printed in pamphlet form for distribution.¹

Undoubtedly there is much justification in the charge so often made that county finances are in a deplorable condition. This is due to an obsolete organization, out-of-date methods of procedure and incompetent officials. Only a complete overhauling of county government can remedy these defects and even then considerable time will be required.

¹Code (1917), secs. 517, 5883.

CHAPTER VI

CERTAIN ADMINISTRATIVE AND CLERICAL OFFICES

When one hears such terms as "bank official" or "corporation official," he immediately thinks of presidents, directors, managers, superintendents, and the like; in other words, policy forming and executive officials. In city government the outstanding officials are the council, mayor or manager, and the department heads. Such is not the case in county government. A group of officers whose duties are chiefly clerical, namely, the clerks of the county, chancery, and circuit courts, the trustee, and register, along with the sheriff and tax assessor, occupy the spotlight in county government. In a business corporation or in most governmental units, these officials would be appointed and removed at will, except where civil service regulations gave them partial protection. One might ask just why these county officers occupy a place so far out of proportion to the duties of the office. In the first place, they are fortified by the constitution; secondly, by local political conditions; and thirdly, by tradition of over a century and a quarter. It will take considerable dynamiting to dislodge them from any of these fortifications.

An interesting situation has developed with the rise of executive officers as the poorhouse superintendent, superintendent of education, and highway engineer. The former official is appointed by the poorhouse commission in all counties, while the two latter are appointed by a board in some counties. The Constitution, however, states that "no county office created by the legislature shall be filled otherwise than

by the people or the county court." The State Supreme Court, probably realizing that such officials might be better chosen than as outlined in the Constitution, have ruled that these officials are not county officers, but are county employees.¹

It is hard to believe that one who copies deeds into a permanent record book should be called by the dignified title of county officer, should be protected by the Constitution, and elected by popular vote, while the highway engineer or superintendent of education, or director of health work are merely employees and can be chosen in most any way. An analysis of the "democratic mind" of the average rural citizen would present a most fascinating study. When told that the register or clerks of the courts should be appointed, the voter immediately answers that such procedure is undemocratic, and to brand anything as undemocratic or unpatriotic is but to sound its death knell in our democracy. On the other hand, the appointment of the county agent or health director does not seem to produce the slightest degree of democratic indigestion.

It is commonly thought throughout the state that these county administrative and clerical officials are not well qualified for their work and that many of the offices are conducted in a very inefficient way. Notwithstanding the difficulties involved and the impossibility of devising a mathematically accurate measurement, an attempt will be made in this chapter to throw some light on the question of qualifications and efficiency.

Some Experiences of the Writer in Visiting Ten Counties in 1929.- Since all of the counties of the

¹Shannon, Annotated Constitution of Tennessee, art. 11, sec. 17.

state have practically the same set of officials, the smaller counties do not have a sufficient amount of work to keep their officers busy. It is said of some counties that the officers do not come to their office except on Saturdays. A deputy in the circuit court clerk's office at Nashville told the writer that a Nashville attorney drove out to a small county to file a suit in the circuit court and could not find the clerk. He left the necessary papers with another county officer. The next day while he was arguing the case before the court in Nashville he received a long distance call from the clerk of the small county who apparently did not understand what he was supposed to do. It was necessary for the Nashville judge to suspend court while he answered the call. The writer, therefore, took special note of the number of officers who were in their offices ready for business.

In Cannon County at 9 A.M. the register and trustee were in. The county court clerk was not in but there was a boy in his office who said that he acted as deputy sometimes. He was unable to give the information desired. The offices of the clerk and master and the circuit court clerk were open but vacant. The former came in at 10:30; the latter shortly after noon. A week later at 9:30 the trustee was the only man who was in his office. The door of the clerk and master's office was open but he was not in. All other offices were locked.

A few days later Grundy County was visited. Al-tamont, the county seat, has a population of 104. At 10:30 o'clock every office in the courthouse was locked. Some one at a garage said that the county court clerk was at his house. He was found there supervising the construction of a concrete walk in front of his place. When he saw the writer approaching, he picked up his

crutches--he was a cripple--and stood. He stated that Tracy City, a town of about 2,500, in the lower end of the county, some years ago, had tried to have the county seat moved. Finally a compromise was reached and the county, though one of the poorest in the state, now has two courthouses and two jails. He and the register had offices at Altamont and the other officers were at Tracy City. He further stated that the register seldom came to this office since he did not average one instrument for registration a day. Tracy City was then visited. At 11:45 A.M. the circuit court clerk and the clerk and master were in. The trustee had tacked on his door a piece of cardboard on which the following was written; "If any one wants to pay taxes I will be at home."

At the Moore County courthouse at 10:00 o'clock the only officer in was the county court clerk. At 10:30 the circuit court clerk came in and at 11:00 the trustee and the clerk and master. The register did not come to her office that morning. At Manchester at 1:30 P.M. all of the officers were in except the circuit court clerk. He sent word that he had company "from a distance" and would not be down that afternoon. In all other counties except Warren all officers were in their office or near-by. Since the county fair was going on in Warren County, it would hardly be fair to take notice of the fact that certain offices were closed. Upon a second visit all officers were found in.

At McMinnville the writer met a former student who gave some interesting information about Van Buren County. This gentleman held the offices of county superintendent of education and of deputy clerk and master during the entire time that he was a student at the Teachers College and the State Medical College. He had an understanding with the other county officials to

take care of his interest when the state school inspectors visited his county. In return, during his school vacation he took care of most of the offices in the courthouse. Finally the state department of education found out the true situation and cut off his salary. He then resigned. At the time of his resignation he was drawing \$1,500 a year.

An official in Cannon County referred to the superintendent of education as "they." When asked how many superintendents the county had, he said, "Well, two I guess." He went on to say that the former superintendent had been ousted by the law courts for various irregularities. Being ineligible for reelection, he dictated his successor to the county court. The new superintendent lives at his home, and uses his car in visiting the schools of the county.

The trustee of one county asked the writer how many United States Senators Tennessee was entitled to. When told that each state was allowed two, he stated that he guessed he had made a mistake since he had told a high school student over the phone the night before that he thought the number was five.

The courthouses visited were as a rule dirty and in some cases all but insanitary. The writer is certain that the hall of the Cannon County courthouse was not swept during the week between his two visits. The woman register of one county said that she liked county work with the exception of the dirt. Yet this was one of the cleanest buildings visited.

Qualifications of Certain Officials.- For determining the qualifications of county officials seventeen typical counties were selected. These counties are contiguous and represent the middle basin, the highland rim and the mountains. Hamilton, one of the

four large counties of the state, is also included.¹ The following officials, exclusive of clerks and masters who are discussed separately, were interviewed; thirteen county court clerks, fourteen circuit court clerks, fourteen registers, fourteen trustees, five sheriffs and one tax assessor, a total of sixty-one, all elected by the people. The sheriff and the tax assessor spend little time at the courthouse. This accounts for the fact that such a small number of these officials were interviewed. Each official was asked a series of questions and the answers written down.

The oldest of the group was eighty-four, the youngest twenty-two while the median was forty-four. Fifty-six of the sixty-one were married or widowers. Fifty-four were church members. It was difficult to get at their educational qualifications. Especially was this true with the older men who grew up when schools were few and ran only a few months each year. Some were unable to state how many years they had been to school. In such cases, it is a safe guess that they had not finished the elementary school. Twenty-nine had had only an elementary education or less; twenty-six had had some high school work; ten were graduates of standard high schools while six had attended college, none, however, graduating. Of the high school graduates one had taken a law course by correspondence while two had had business courses.

As would be expected, county officers are not men of wealth. Sixteen paid no taxes at all. The

¹The counties chosen were Bedford, Cannon, Coffee, Dickson, Franklin, Giles, Grundy, Hamilton, Lincoln, DeKalb, Marshall, Moore, Rutherford, Maury, Sequatchie, Warren and White.

median for assessed property was \$2,500 while four paid taxes on more than \$5,000 worth of property. The above figures do not include non-taxable securities. It is very doubtful, however, if much of this class of property is possessed by this group. An exemption of \$1,000 is allowed and furthermore property is assessed at from sixty to seventy-five per cent of its value. On the other hand no allowance was made for mortgages or for property bought on time.

Forty had not held any other public office. Twenty-one had held other such offices, one having held five. Thirty-three were farmers. Seven had spent most of their life in public office and four were store clerks. Other occupations listed were automobile business, merchant, banker, milling, insurance, tailor, lawyer and cafe owner. Sixteen had worked at two occupations for some length of time, five had had three occupations while one had had five. Thirty-eight were regular party men, some answering with emphasis. Three were independents. Eighteen were active in party affairs; six were fairly active; thirty were not active; seven gave indefinite answers. Thirty-two were serving their first term; sixteen their second; four their third and five their fourth or more. Information is lacking for four. All of the counties customarily give a second term to all candidates except DeKalb where only one term is the rule. In White County there seemed to be no objection to more than two terms.

The median official for the counties studied is, therefore, forty-four years old, married, a church member, has an elementary education, and perhaps, has had some high school work, is a regular party man though not active in party affairs, is serving his first term, has property assessed at \$2,500, has not held any other office and is a farmer by profession. That a middle

aged farmer would not make a good bookkeeper immediately suggests itself.

Clerks and masters are appointed by the chancellor for a term of six years. Twelve were interviewed. The median age was fifty-eight; one was reputed to be very wealthy; three had property assessed at over \$10,000, while the median was \$5,000. Six were lawyers. It might be added here that in order to successfully do certain phases of the work of this office one must be a lawyer, or, must consult a lawyer often until he has been in the office for some time. It is generally thought that the clerks and masters are the best qualified of county officers. While the above information is not sufficient to justify a conclusion, it points in that direction. They were less friendly than other officers. The explanation of this is the fact that they are appointed and not elected. When they once began to talk, however, they displayed considerable intelligence about county affairs. Their superiority is probably due to the fact that the office requires some intelligence, and that they are appointed by the chancellor and hold office for a number of years. One had held office for thirty years, another twenty-five while the median was twelve years. None of them were cripples.

One reason usually given for the lack of ability of county officers is the fact that personal friendship and sympathy play such an important part in elections. It is often said that cripples run well in county elections and that a crutch is worth five hundred votes. An attempt was made to determine the extent to which sympathy figures in county elections. A questionnaire was sent to some school official in each of the forty counties in Middle Tennessee asking how many county court clerks, circuit court clerks, registers, trustees, sheriffs, and tax assessors were, at

the time of their election, widows, physical defectives, in bad financial condition or ex-service men. The following table shows the results.

TABLE V

Sympathy and County Elections

Office	Widow	Physical Defective	Bad Fi- nances	Ex- service	Total
County Clerk.	0	10	1	3	14
Circuit Clerk	0	8	3	2	13
Register.....	9	11	0	1	21
Trustee.....	0	8	4	3	15
Sheriff.....	1	0	1	3	5
Tax Assessor.	0	5	0	1	6
Total.....	10	42	9	13	74

Answers were received from thirty-six counties, making a total of 216 officers about whom information was received. It is very likely that the figures do not tell the whole story, especially in the case of the financial standing. Three answering the questionnaire stated that they could give no information on this point. It is the opinion of the writer that depleted finances is the most common of all pleas for election. Cripples generally use it as do the able-bodied when they have no other plea. The above table shows that seventy-four officers had some sympathetic appeal. Of that number, fourteen were reported in two classes, eleven of the cripples being in bad financial condition, while three of them were also ex-service men. Such cases were listed as cripples only in the table. This indicates that 34.26 per cent of the two hundred and

sixteen officers had a sympathetic appeal. If ex-service men are not considered, and there is some reason for omitting them, the figures are 28.24 per cent. The sheriff is supposed to be an able-bodied man, and the same is true, though to a less extent, of the tax assessor. If these two offices are omitted and the other four are considered from the points of view of widowhood, physical defects and bad financial condition the figures are 37.60 per cent. If these four offices are considered from all points the result is 43.75 per cent. Of the eleven women holding office nine were widows and the husband of one was in the insane asylum.

Of the trustees of Rutherford County for the last twenty years, one was a cripple, one was blind, one was partially disabled from paralysis, one had a withered hand, one was a partially disabled war veteran, while one, an invalid for fifteen years, died in office and was succeeded by his widow who now holds the office.

Campaigns and Elections.- Contests for county offices in most counties are decided in the primaries rather than in general elections. The Nashville Banner gave complete returns for Democratic county primaries for the offices of county court clerk, circuit court clerk, register, trustee, and sheriff for seventeen counties from August 1 to November 15, 1929.¹ The average number of candidates for all offices, excluding those cases where a candidate seeking a second term was unopposed, was 3.55, a moderate figure. In some cases, however, the numbers ran high. For example, there were

¹Bedford, Benton, Cannon, Crockett, Davidson, Henry, Hickman, Gibson, Maury, Obion, Perry, Putnam, Sumner, Trousdale, Warren, White, and Wilson.

twenty-four candidates for five offices in Putnam County, while in Sumner County there were eight in the sheriff's race, and in Bedford, seven. There was little difference in the average number of candidates for the various offices, the highest being 3.70 for trustee and the lowest 3.12 for register.

Interest in county primaries often runs high, while the vote cast exceeds that cast in state elections. In the seventeen counties referred to above the average vote for the county officers was 1.4 times as great as the vote in the Democratic primary for governor in 1928. It should be borne in mind, however, that state primary elections are controlled by laws requiring poll tax receipts for all voters and registration in the cities and large towns, while county primaries are for the most part regulated by the party. But granting this, one wonders why such a large vote should be polled for officials whose duties are chiefly clerical.

The following clippings of accounts of elections should be of some interest.

"Owing to conditions that prevailed in the last primary and with the same condition still prevailing, and the fact that out of the 180 persons appointed by the executive committee to hold the primary, 146 of them are friends of Mr. Partridge, and thirty-four are my friends, I deem it useless to proceed further, and hereby withdraw from the race for county court clerk of Hardeman County...¹

"For a second time the Democratic primary board of Perry County met Monday to canvass the return of the county primary held Nov. 2, and

¹Nashville Banner, Sept. 11, 1929 (Statement of A. W. Neely).

declaring the result again deferred final election till November 5. It seems to be generally admitted that local political matters are somewhat involved, and not altogether free of suspicion. It appears that nearly 2,000 persons went to the polls in the recent primary, several hundred more than ever before participated in an election. This has created some dissatisfaction; but on the other hand it also seems that very few restrictions were thrown around the holding of the primary by the executive committee, and the primary board is confronted with a delicate and dangerous situation when considered from the standpoint of future party welfare. Majority sentiment seems to indicate that hereafter necessary precautions will be taken against a repetition.¹

"With Humboldt, Milan and Dyer refusing to report their returns, the Gibson County primary throughout Sunday retained the 'airtight' character it assumed at midnight Saturday. Accusations of pre-election bargains and 'double-crossing' among these boxes were rife Sunday. Humboldt is said to have polled 1996; Milan 1154; and Dyer 847.²

"Weakley polled the heaviest vote ever cast, 6,852, in Saturday's Democratic primary... In the register's race, Prince, a dirt farmer, who was pictured behind a plow drawn by two mules, furnished a surprise. He was not known out of his district before the primary. Cayce

¹Nashville Banner, Nov. 12.

²Ibid., Aug. 26.

Pentecost, nominated for county court clerk, is a Primitive Baptist preacher and a popular one as shown by his vote.¹

"The Cannon County primary election is set for Saturday, September 14... For many years heretofore the primaries in Cannon County have been held in a lax manner until the people are aroused over the way in which Republicans have participated. The executive committee is calling the primary and has put every legal safeguard around the election, making all the laws governing the election applicable. In addition all the candidates have signed an agreement not to spend any money in the election, which agreement is to be lodged with Sterling S. Browne, chairman of the Democratic Executive Committee and when so lodged to become irrevocable."²

One often hears it said that a well qualified man will not run for a county office because he is unwilling to engage in the type of campaign required of those seeking election. The writer was in Bedford County during the month of August 1929 while a campaign for Democratic nominations was in progress. In the race for sheriff there were seven candidates; four in the race for county court clerk; four for circuit court clerk; two for register, while the trustee was running for a second term unopposed. Of the eighteen candidates five were not assessed for taxation. The highest assessment was \$6,000.00 while the median was \$1,200.00. None of the candidates could be classed as highly successful in business, though several might be classed as moderately so. The majority, however, were either out

¹Nashville Banner, Aug. 3.

²Nashville Tennessean, Aug. 3.

of jobs or had unsatisfactory ones. Four had physical defects; one had only one eye, one was crippled, a third had lost a hand, while a fourth was an invalid. The one who had lost a hand withdrew. Of the other three only the cripple was elected.

Various types of campaigning are employed by the candidates. Each usually has a card printed and makes an effort to leave one with each voter in the county. This is done by visiting the home or place of business of the voter, or by electioneering with him at public gatherings. In this election the writer observed ten of the candidates busily engaged at the War-trace colt show. It was reported that others were there. A few days later a citizen who had been to a funeral remarked that there was a good crowd there, counting candidates.

Another appeal is by posting large cardboard pictures in public places. This method was not resorted to in the Bedford County election but was used in adjoining counties.¹ Large canvas sheets advertising the candidates are often seen at the county fair. Circular letters are sometimes sent out. In this election the Anti-saloon league sent out a letter in behalf of its candidate for sheriff, while a leading politician of the county sent out one requesting his friends to vote for a relative of his.

Newspaper advertising was resorted to by most of the candidates. In the last issue of the Shelbyville Gazette immediately preceding the election² there were twelve advertisements by candidates, two half page ones by friends, and ten smaller ones, some of them

¹It was reported that in an adjoining county a candidate had printed a large card, on which was a picture of his wife and five children, entitled "Six reasons why I

²should be elected."

August 29, 1929.

being only cards. One of the half page advertisements represented the candidate as "competent and worthy," while the other used the words "competent, trustworthy, and needs the office." Another read "An office man of long experience who needs the office," while one candidate stated that he was running on his reputation as a policeman in Shelbyville. The others simply gave the name of the candidate and the office for which he was running.

The writer interviewed nine candidates, the brother of one and the brother-in-law of one. The arguments most commonly made were ability to handle the office and financial need. Listed below are some typical statements that were written down during the interview or immediately after it.

One had worked as deputy for twenty years while another had been drawing the money and he therefore deserved to be elected; his long experience qualified him for the work and his books had always balanced when audited by the state.

Another was "one of nine children raised on a rented farm." His wife had recently died of tuberculosis in the west and he was "down financially." He had clerked in a store and kept books and this should qualify him for the office. A candidate for the office of circuit court clerk stated that he was in the insurance business, had worked in the state department of education in Texas for six years and felt that he was well qualified for the work; he had only one eye and had managed to make a living for himself and his wife and if elected would "run the office right."

A candidate for sheriff said that he had been called upon to educate his three nieces and that "his head was under financially, but he was not begging anybody for anything." He pointed with pride to his record

as sheriff in 1917. When asked how he stood on prohibition, he answered that he favored enforcing "all laws." Another candidate for sheriff when asked his stand on prohibition said that he "would enforce the law but that he would not do anything lowdown or underhanded." He was reported to be the bootleggers' candidate. A third candidate for sheriff who seemed to be groping around for a platform represented himself as "just a poor farm boy." When asked for his stand on prohibition said, "What do you want?" When told that he would have to state his position first, he answered, "Well, you know they say I am a bootlegger..." He hesitated and apparently reading disapproval closed his sentence with "but I am the dryest man in the race." The best qualified man in the race for county court clerk ran a poor fourth. He could not make friends. It is reported that one county official in Bedford County stated that years ago he planned to run for a county office when he got old and attempted to get acquainted with every voter in the county. He was elected by an overwhelming vote.

The following remarks were picked up during the campaign.

"County offices are for the older men and the young fellows should wait their time.

The man that has the most money to put in the race during the last week will win.

I feel sorry for some of these candidates. They don't even know how to shake hands with a man.

The Anti-Saloon league certainly fell down in this election.

Uncle Joe is a rich man and ought to get out of the race.

That office ought to go to some farmer and not a city fellow that can make a living some other way.

I am not going to vote for "X" even if he is the best qualified man in the race. He never speaks to you when he sees you."

Elective Officials and Salary.- Before 1917 county officials were on a fee basis in the larger counties, while in the smaller the fees were often supplemented by a cash bonus for ex officio services. It was claimed that certain officers in the larger counties were making as high as \$50,000 a year. In 1917 an act was passed limiting the fees of all officers in counties of more than 30,000 population. Another act was passed in 1921 somewhat modifying that of 1917.¹ Under the latter act the counties of the state are divided into three classes, (a) those of 200,000 population or more, (b) 100,000 or over but under 200,000 and (c) under 100,000. In the first class the sheriff and trustee are limited to \$7,500 net, and all other officers to \$6,000. In the second class all are limited to \$6,000, while in the third class \$5,000 is the limit.

There is no doubt but that this law has been a great saving to the large counties. According to a letter² to the writer from the judge of Knox County, county offices in Knox County turned back to the county treasury during the year 1928 the sum of \$69,896.96. During 1929, Hamilton County officials, turned back \$91,719.01.³ No figures are available for Shelby and Davidson counties, the two largest in the state.

Acts supplementing the salaries of officials in the smaller counties are of three types. In some instances the official is given an ex officio salary in

¹Public Acts, 1921, ch. 101.

²Dated May 21, 1930

³Article in Chattanooga Times, June 30, 1930, p. 11.

addition to all fees, in other cases he is guaranteed a certain amount, but has the right to elect the fees if they exceed the guarantee, while in some instances the official is paid a straight salary in lieu of all fees.

The term "fees" has caused considerable discussion in connection with laws regulating salaries. Section one of the salary act of 1921 specifically excludes "special services as trustee or receiver" from the application of the act. Private acts are customarily construed in the same way. If, therefore, a county official is given a salary of \$1,200 in lieu of all fees, it does not necessarily mean that this sum is all he will get out of the office. The "extras," as they are often called, might amount to more than the salary in the case of the clerk and master. Other officers who sometimes profit by these "extras" are the county court clerk, and to a very limited degree, the circuit court clerk. The average individual does not know this and thinks that if an office is put on a straight salary basis the sum fixed by the law is all the officer receives.

The following table shows the annual salary of certain county officers in eleven counties visited by the writer in 1929. The figures were gotten from the officers themselves in most cases. In a few instances where an officer was out, other county officials were consulted. Wherever a special act had been passed regulating the salary it was verified by looking it up in the statutes. The sheriff is not included in this list, since it was well nigh impossible to get any information from him.

TABLE VI

Salaries of Certain County Officers in Eleven Counties
in Middle Tennessee in 1928

County	Popu- lation	Trus- tee	County Clerk	Circuit Clerk	Reg- ister	As- sessor	Clerk and Master
Rutherford	32291	\$5000f	\$5000f	\$3200b	\$3500f	\$1500f	\$2800f
Franklin..	21792	4200f	3400f	1250s	1700f	1200s	2000s
Bedford...	21070	4000f	3800f	1500s	1500f		2100s
Warren....	18481	2400s	2000f	1200s	1200f	1200s	1200s
Coffee....	16800	3500f	2400f	1200s	1400f	1800s	1200s
White.....	15621	3500f	1800f	700f	700f		1200f
DeKalb....	14268	3000f	1800f	1000s	1000f	1000s	1500f
Grundy....	9719	1900f	1200f	900b	350f	600s	1900b
Cannon....	8934	2400f	1500f	1000s	1000b	1000s	1500f
Moore.....	4037	1500s	1000s	550b	650b		900b
Van Buren.	3516	1200f	450f	500b	300f	400s	400f

"f" denotes that the income is on a fee basis; "s" denotes a salary or guarantee of a specified amount; "b" denotes a bonus in addition to all fees.

There is often little relation between the amount of work done and the remuneration as shown by the above table. The trustee does as little work as any officer in the county and invariably gets the most pay. In Coffee County the tax assessor is paid \$1,800 while in Franklin County, which has much more taxable property than Coffee, the salary is \$1,200. In Cannon County the fees of the register amount to about \$500 and he is given an additional bonus of \$500, while in Grundy County where fees are less than \$500 there is no additional salary. On the other hand, in Grundy County the fees of the circuit court clerk are about the same as those of the register yet he is allowed a \$500 bonus. Many other such cases can be noted by examining the Private Acts of the legislature. This bears out the statement made earlier that

salaries often depend on the office holder's ability as a politician.

A few of the offices in the above counties had deputies. In some cases members of officers' families help at busy times. The deputy trustee of Warren County, who was making out his report to the state and waiting on the window at the same time, complained bitterly because the trustee never came about the office and got most of the pay. The deputy trustee of White County stated that the trustee "was a visitor" at the office occasionally.

Quality of the Work of County Officials.- By the process of deductive reasoning the reader has no doubt come to the conclusion that the quality of work of county elective officials is not very high. This might be based on several facts. In the first place, a middle-aged farmer, who has been none too successful at his chosen occupation, naturally would not make an efficient bookkeeper, especially in view of the fact that about all the instruction he gets in regard to running the office is from the outgoing officer or his deputy. In the second place, efficiency is not the determining factor in an election, but rather sympathy and popularity. In the third place, the type of campaign is not such as would induce a successful business man to become a candidate for an office for a period of only two terms. Neither would a bright young man be likely to choose a service to the county as his life work. Finally salary juggling and the lack of relationship between the work done and the pay would not appeal to qualified individuals. They would naturally prefer the more certain tenure and the more properly adjusted salaries which business has to offer.

Is there not a more direct way, however, of measuring the efficiency of county officials? One quite

often reads in the newspapers about the state or county holding bondsmen responsible for the shortages of county officials. Occasionally an official is sent to the penitentiary or commits suicide. An agent for a bonding company recently told the writer that it was reported in bonding company circles that twenty-four trustees in the state were delinquent and were having trouble with their bonding companies. He further stated that one company, the National Security Company, had recently refused to make bonds for Tennessee trustees.

The writer decided to see what the state department of finance and taxation could tell him in regard to the question. At first it refused to give him any tabulated material but did not hesitate to declare that county officials, in general, were utterly unqualified and inefficient. A stenographer in one of the offices stated that probably ninety per cent of the county officials handling state funds checked up short when examined by the state auditors. Later, one of the auditors when asked if ninety per cent of the officers checked up short said, "Let's be conservative and say sixty per cent." He then went on and told of case after case of large deficits which county auditors had overlooked. He further stated that shortages were usually the result of bad bookkeeping and inefficiency on the part of the officer, but that in some cases officials were dishonest and took advantage of an obsolete system and local politics to cover their dishonesty.

The superintendent of taxation stated that there was no telling how much the state lost annually under present conditions. When asked if he did not think further administrative supervision by the department of finance and taxation would help to remedy conditions, he answered that as far as the general property tax was concerned he would be glad if, as soon as the

county assessments had been made and the rate fixed, the state would simply charge up the county with its part of this tax and require the county to send a check for the amount. Then the county could do what it pleased with county accounts and make all the mistakes it cared to. He was completely disgusted with the present situation, but went on to say that improvement would be very difficult due to the political influence of county "gangs" and officers.

On the writer's first visit to the department of finance and taxation he was told that there was a memorandum book in the office in which each auditor recorded all shortages after visiting a county. It was not until the third trip, however, that he was able to get access to this book, and then only for a short time. An examination of its pages revealed that 180 county officials checked up short in 1928. There are 95 counties in the state, each with four officials, the trustee, county court clerk, circuit court clerk, and the clerk and master, whose books are audited by the state department. This makes a total of 380. If all of the counties in the state were visited by the auditor this means 47 per cent checked up short. One state auditor, however, told the writer on a previous visit that it was impossible for the state auditing department to visit all of the counties in the state annually. This same auditor further stated that when books failed to balance by relatively small amounts the county official usually took care of the deficit immediately and was credited with a balance. The shortages in this book ran as high as \$13,000 for county funds and \$3,000 for state funds. It is interesting to note that two officials had overpaid the state.

CHAPTER VII

CERTAIN PHASES OF COST AND EFFICIENCY OF GOVERNMENT IN RUTHERFORD COUNTY AND IN SEVEN SUB-MEDIAN COUNTIES

It is generally conceded that the organization of the county should undergo a complete reconstruction with responsibility placed in the hands of some chief executive. The findings of this study seem to justify such a conclusion. Whether the chief administrative officer of a reorganized county plan is called a county manager, county chairman, or county judge, or is given some other name is of little importance. Before such a reorganization could be justified, however, there would necessarily have to be a certain amount of business in each county which would demand the services of a rather large number of employees. Unfortunately, at present, most of the counties in Tennessee do not have a sufficient population, wealth, and volume of business to justify a scientific plan of government. A suitable division of labor and proper lines of responsibility cannot be worked out in an organization consisting of a mere handful of workers. In view of this situation, consolidation of counties is, in many respects, as urgent a need as consolidation of offices. Chapter VIII is devoted to a reorganization plan in which the number of counties in the state is reduced from ninety-five to thirteen.

Before entering upon a consideration of consolidation a brief discussion will be given of the cost of administering county affairs under the present system, and of the inadequate attention given to such matters

as health, roads, charities and corrections, and education. Rutherford County, as a representative of the larger counties of the state will be treated first. This will be followed by an analysis of conditions in seven sub-median counties.

The cost of operating the government in Rutherford County is unquestionably much greater than it should be; how much greater is difficult to say.

During the year 1928 the trustee's office collected \$9,000.00.¹ Out of this sum the trustee received a salary of \$5,000.00 while the deputy received \$1,200.00. The remainder was paid in to the county treasury. The cost of operating this office for the year under consideration was, therefore, \$6,200.00. One well qualified person could have done the work.

In 1928 the office of county court clerk collected slightly under \$7,000.00 in fees. The clerk received \$5,000.00 for his services and his deputy \$1,500.00. None of the other officers received a salary of \$5,000.00, the maximum allowed in a county the size of Rutherford. The fees of the register amounted to \$3,407.00 out of which the deputy received \$900.00. During the same year, the clerk and master received \$2,800.00. He paid his stenographer \$720.00. The circuit court clerk collected \$3,200.00 in fees while deputy service cost him between six and seven hundred dollars. The total cost of operating these offices was approximately \$22,000.00. Of this sum the deputies, who do most of the work, received about \$5,000.00 for their services, while their superiors received \$17,000.00. The question is often asked, Why cannot the county hire

¹The information concerning the fees of the offices discussed in this chapter was obtained from the officers themselves.

the deputies directly thereby reducing very materially the cost of operating these offices?

A more business-like organization should result in savings in other offices. The sheriff's office could be run more economically. A small saving might be made in the case of the assessment of taxes, though this is doubted by many. While a specialist, as the superintendent of education, health officer, or road engineer could easily supervise much more work than is now under his jurisdiction, a combination of these offices would be impossible. Consolidation of counties is the only remedy for this situation. Other savings which a reorganization should bring about are the elimination of useless boards and commissions, a better supervision of accounts and a more systematic method of purchasing.

A few words will be devoted to the question of seasonal occupation. The trustee and the county court clerk are very busy during the first three months of the year, especially February. The same is true, though to a less degree, of the register. Consolidation of offices and of areas should somewhat reduce the irregularities of seasonal occupation, especially in the case of the clerks of the courts. Even after consolidation, however, some steps would be necessary to equalize the burden caused by unequal distribution of work. Fortunately the type of work which causes the busy seasons in the various offices is easy and can be done by most any one. The work of the register's office consists of registering deeds and the ability to use a typewriter is the only qualification necessary. The work of the trustee and county court clerk during the busy season does not even require ability to use a typewriter. In the case of the trustee's office it consists of writing tax receipts, while in the county court clerk's office

the busy season is issuing automobile licenses. If all county offices were consolidated into a well integrated system, a force capable of operating the county's business in normal times could be employed and additional labor could be hired during the busy season. At present, the officers are, as one official expressed it, "worked to death for a few months with very little to do the rest of the year."

The administration of Rutherford County is costing too much. This is due, among other things, to untrained and in many cases lazy officials; to lack of coordination between the various offices; and, most of all, to the fee system. A reorganization along modern business lines should result in considerable saving, but would immediately raise the question, Is there enough work in a county this size to result in an efficient system? There probably is not. Even if the present force were retained, the number would be very small. If it were reduced, and it very probably should be, it is difficult to see how a satisfactory division of labor could be worked out.

Conditions in certain sub-median counties will now be taken up. The following table shows the counties chosen and gives some information concerning each.

TABLE VII

Population, Area, and Wealth of Seven Sub-Median
Counties and of Rutherford County

County	Population ^a	Area	Assessed Wealth ^a	Tax Rate ^a
Warren....	18,481	423	\$7,593,139	2.32
Rank....	47	57	50	
Coffee....	16,800	443	7,123,560	1.60
Rank....	54	51	54	
White.....	15,621	363	6,073,437	1.60
Rank....	57	64	59	
DeKalb....	14,268	311	4,143,780	1.55
Rank....	61	72	71	
Grundy....	9,719	375	2,865,974	2.06
Rank....	81	682	82	
Cannon....	8,934	268	2,922,287	2.30
Rank....	85	80	81	
Van Buren.	3,516	293	1,772,433	1.80
Total.....	87,339	2476	\$32,494,610	
Rutherford	32,291	614	22,391,231	1.58

Population, 1930, Preliminary Report; wealth
and tax rate, 1928.

These counties are situated on the highland rim and the Cumberland plateau, are contiguous, and were all visited by the writer, with the exception of Van Buren. They are well distributed in population from Warren which is near the median for the state to Van Buren which stands last. This group of counties has been suggested as the basis of a new county with McMinnville as the county seat. While this arrangement of counties is not

recommended as a new county in Chapter VII on consolidation, it is suggested as an alternative plan.

Consolidation of areas and of offices would not only concentrate a sufficient amount of work to result in a more efficiently organized system, but would effect great savings by the elimination of useless offices. The total number of offices in these seven counties is approximately six hundred, distributed in round numbers as follows; justices of the peace, 225; constables, 110; general county officers, 100; road commissioners, 45; boards of education, 55; boards of equalization, 35; poorhouse commissioners, 20; deputy sheriffs, and notaries public, unknown.¹ A commission of five members could easily take the place of the 225 justices; the boards and commissions could be reduced to three members each, or abolished altogether in some cases; while a county judge with a deputy and a dozen stenographers could probably take the place of the general county officers.

The table on page 122 shows that the cost of operating the offices of trustee, county court clerk, circuit court clerk, clerk and master, and register for the seven counties for 1928 was approximately \$50,000. The cost of operating the same offices in Rutherford County was \$22,000. If population and wealth are indicative of the amount of work done at the courthouse, all of these counties collectively would have about twice as much work as Rutherford County.

The rest of the chapter is devoted to care of the poor, road work, treatment of prisoners, health work, and a few minor matters, as farm and home demonstration work. Schools are not discussed. Although the small counties are somewhat behind the larger ones in school matters, they are not so far behind as in other respects

¹This information was obtained from the Public and Private Acts of Tennessee and from various county officers.

due to the equalization policy of the state which has greatly improved rural schools in all counties during the last ten years.

County almshouses consist of one or more buildings and a farm. The following report of the Welfare Division of the State Department of Institutions will serve as an introduction to the subject.¹

"All but ten of the ninety-five counties have almshouses, sometimes called poorhouses or poor farms. The capital investment in these institutions is about \$2,000,000.00. They include a total of more than 10,000 acres of land. The annual operating expense is, in round figures, \$500,000.00. When we consider that the total population in these institutions is only about 2,000 persons, we see that the average per capita cost is \$250.00. In their establishment a capital expenditure of about \$1,000.00 has been made for each inmate, on an average. Thus, the almshouse as it is in Tennessee today is the most expensive piece of welfare work being carried on in the state, and decidedly the poorest... Such counties (the smaller ones) in each Congressional district or other geographic plan, should sell their present almshouse properties, pool the proceeds and establish one centrally located institution for the district's aged and chronically sick persons..."

The following statements were copied from the reports of the inspector for the Welfare Division. They apply to almshouses for the year 1928 for the seven submedian counties under discussion and for Rutherford County.

¹Biennial Report of Department of Institutions of Tennessee, 1926-1928, pp. 16-17.

"County A: thirteen inmates; superintendent allowed nine dollars per inmate per month; no baths; two toilets; use lamps though power line within one-half mile of the house; jail room has no ventilation except an opening 6 x 12 inches in door.

County B: capacity thirty, inmates twenty-five; rooms need ventilation; no way to segregate men and women except by locking them behind bars; no heat in dining room; hole in floor for sanitary purposes; outdoor toilets; salary of superintendent, \$9.50 per inmate per month. The keeper's wife did not want to show the inspector through the institution. When told that it was a state law she answered, "We will do as we please. I care nothing for the state laws; we have county laws."

County C: nineteen inmates; rooms in good order; salary of superintendent is \$1.00 per week per inmate and products of farm; superintendent has a reputation of not being a hard worker; a very old place and should be replaced.

County D: a new brick building four years old and valued at \$25,000.00; plaster falling from several walls; had bathroom fixtures but they had never been installed; cleaner than last visit; outdoor toilets; capacity eleven, twelve inmates; salary of superintendent \$100.00 per year per inmate and farm products; superintendent had no idea what farm products amounted to.

County E: capacity six, two inmates; dirty, dilapidated, poorly furnished, a

disreputable institution; salary of superintendent \$12.25 per month per inmate; superintendent is poverty stricken and ignorant but appeared kindly.

County F: capacity twelve, inmates five; no baths or toilets; rooms clean; salary of superintendent \$400.00 (now \$500.00 per year).

County G: no almshouse; poor are cared for in private homes.

Rutherford County: sixty-four inmates; salary of superintendent \$1,400.00 a year; a new brick building with separate departments for men and women; each department has tub, but no running water; new quarters for negroes badly needed.

The above quotations indicate that most superintendents are not on a salary basis but are allowed a certain amount for each inmate. Such an arrangement is always hard on the inmates. A thrifty superintendent with a good county farm often derives a nice income from his office.

TABLE VIII

Investment in Almshouses and Number of
Inmates, 1928^a

County	Value of Buildings & Farm	No. of Inmates
Cannon.....	\$10,000	5
Coffee.....	6,000	25
DeKalb.....	25,000	12
Grundy.....	600	2
Van Buren.....	0	0
Warren.....	6,500	13
White.....	12,500	19
Total.....	\$60,600	76
Rutherford.....	\$20,000	64

a. This material was obtained from the reports of the inspector of jails, almshouses, and workhouses, on file in the office of the Welfare Division, and from letters addressed to county court clerks.

Aid for the poor at home and general welfare work amount to practically nothing in these small counties. In Rutherford County this work is carried on to a limited degree in the city of Murfreesboro by the town and by local organizations. Sometimes the county court gives aid. The Welfare Division is at present making an effort to organize welfare work in the smaller counties.

Jails and workhouses will be taken up next. The following quotation is taken from the report of the Welfare Department.¹

¹Biennial Report 1926-1928, pp. 17-19.

"Additions and improvements in the jails and workhouses, especially those operated by counties rather than cities and towns, present a more encouraging picture than is the case with almshouses... There is no excuse for filthy jails. They can be kept clean. Some of the oldest, outgrown and overcrowded ones are kept in decent condition. We contend that the prisoner deserves, when he enters, a clean bunk and a place to wash his clothes and his body in warm water; he is entitled to ventilation, plain but adequate and clean food and medical care when sick. The races and sexes should be separated, no children admitted at all, and religious services should be arranged weekly.

Our Welfare Committees and others are advocating the construction of new jails at many places, little hope for acceptable conditions being entertained so long as the present antiquated buildings remain..."

Below are some statements in regard to jails taken from the inspector's report on file in the offices of the Welfare Division for 1928 for the counties under discussion.

"County A: had just been cleaned and was fairly clean now; toilets but no shower; better than under former management; blankets washed every two months; floors mopped weekly.

County B: toilets, baths, hot and cold city water, electric lights; fairly good jail; had had lice but none now.

County C: toilets but no bath; cold water and electric lights; jail used as a work house; cells mopped once in a while; present sheriff reported jail dirty when he came in.

County D: electric lights, water from a well; three toilets, no bath; prisoners kinder wash up in the spring; jail in fair order but not properly heated.

County E: county has two jails, one not used; electric lights, city water, no baths; prisoners wash cover at will; crowded and not in good order.

County F: electric lights, two toilets, no baths; blankets washed a year ago.

County G: a new jail; one room and a two cage cell in the middle; clean.

Rutherford County: in good shape; blankets washed monthly; colored men's department not as clean as white, which was in good order; toilets and bath, city water, hot and cold, and electric lights.

TABLE IX

Investment in Jails and Number of Inmates, 1928^a

County	Value of Building	Number of Inmates
Cannon.....	\$10,000	11
Coffee.....	10,000	4
DeKalb.....	3,000	16
Grundy.....	10,000	23
Van Buren.....	5,000	4
Warren.....	2,500	12
White.....	10,000	8
Total.....	\$50,500	78
Rutherford.....	15,000	20

a. Information obtained from Welfare Division and county court clerks.

Conditions in jails, while not so bad as conditions in almshouses, are by no means satisfactory in the small counties, and consolidation is again recommended as a remedy. Consolidation is also recommended as a remedy for the situation in regard to workhouses. Jails are sometimes used as workhouses for prisoners who have been sentenced to fine or imprisonment. Small counties sometimes send their prisoners to larger adjoining counties.¹ Often they are turned over to county officials who see that they work out their fines. In other cases, they are kept at the jail and work under the direction of the sheriff. In the larger counties, which have a number of prisoners and a highway organization, they are usually used for road construction. This is done in Rutherford County and appears to be working well.

The state has taken over all trunk line roads and incorporated them into a state highway system. A part of the state gasoline tax is now available for county highways, but it is used only on the more important roads under close state supervision. In fact, the state is actually administering this fund in counties that do not have road machinery and a road commission or superintendent. There are still, however, many local roads which the county alone must keep in repair, and which are almost impassable in bad weather. Either the state must take over these roads or the county must have a road system and modern machinery. The larger counties have purchased machinery and are rapidly improving their roads. Many small counties, however, still rely chiefly upon the district system and require each male over eighteen years of age to work the roads a certain number of days each year with picks and shovels.

¹Cannon sends her dangerous prisoners to Rutherford County; the others do odd jobs around the jail.

TABLE X

Organization and Equipment for Road Building

	Graders	Tractors	Grader Tractor Combined	Value of Equipment	Superin- tendent	Salary of Superin- tendent
Cannon.....	0	0	0	00	No	-
Coffee.....	5 ^a	0	0	\$2500	No	-
DeKalb.....	5 ^a	0	0	2000	No	-
Grundy.....	1	1	0	7000 ^b	No	-
Van Buren.....	1	0	0	3000	No	-
Warren.....	2	4	1	6500	Yes	\$1200
White.....	6	3	1	30000 ^b	Yes	1500
Rutherford....	2	8	4	11500	Yes	2100

a. Graders belong to civil districts.

b. The writer believes these figures are much too high.
They were furnished by County Court Clerks.

Health is still in a backward state in these small counties. The law of 1919 permitting counties to create a department of health under the direction of a full time health officer in place of the old board of health has been referred to. None of the small counties discussed in this chapter have taken advantage of this act with the exception of Grundy County which has united with Sequatchie and Bledsoe counties in creating a health district under the supervision of a full time health officer.¹ Only the very largest counties in the state have county hospitals. A movement of recent date to erect a tuberculosis hospital in each Congressional district met with failure. Rutherford County has one of the most efficient health departments in the state. Most of the credit, however, is due the Commonwealth Fund

¹Only four such districts have been created.

which has spent almost a half million dollars in the county within the last ten years.

Only three of the counties have county agricultural agents.¹ Only one has a home demonstration agent.² The chief objection on the part of county courts to these agents is that the county cannot afford them; that they are unnecessary is also often given as a reason.

The Tennessee county is too small a unit for successful administration in view of recent economic developments and of the ever increasing functions of government. The typical county at present does not have a sufficient amount of work. This means that the counties least able to bear waste and inefficiency have, relatively speaking, the greatest burden. An even more important criticism is the inability of weak counties to perform successfully their increasing obligation in such matters as schools, roads, and general welfare work. Consolidation of counties is, at least, one solution of this problem. The next chapter outlines a new set of counties for the entire state.

¹Coffee, Warren and White.

²White.

CHAPTER VIII

COUNTY CONSOLIDATION

There are three possible remedies for the undesirable situation described in the last chapter. The first is the complete abolition of the county. The state would take over its functions and substitute administrative districts as it has done in the case of the trunk line highways. The second is the consolidation of certain county functions in adjoining counties. Several counties would unite in the building of an almshouse or a tuberculosis hospital. The third is the consolidation of the counties into larger areas.

No attempt will be made to evaluate the relative merits of these three plans. Any of them would be an improvement on present conditions. The first is probably the most logical. Yet it is also the most radical and would require a greater effort to bring it about. The people might stand for a transfer of the important duties of the county to the state if old forms were retained and the shell of the county left. They could still refer to the county. But to completely abolish the county, never! Perhaps this might be the best plan after all. Change the substance but leave the form and fool the people.

The second plan suggested has been tried in other states. Massachusetts, for example, has, for a long time, allowed towns, especially small ones, to combine in the discharge of certain duties. In Tennessee counties may combine in the building of almshouses, and in

creating health districts. The writer doubts whether this would be an ultimate solution of the problem. Getting two or more counties to agree for a period of time is a difficult proposition. Certainly the Tennessee counties have not responded to the plan with any enthusiasm. Moreover, this would not touch the clerical offices at the courthouse.

The last plan, namely, consolidation of counties is recommended by the writer. The term "local self government" is heard about as often as any other in American political theory. How much logic there is in the term might be a question, yet it has a hold on the people and no doubt has considerable virtue in it. An argument between the first and third plans would naturally resolve itself chiefly into the merits of efficient administration on the one hand, and of local government on the other. A proper rearrangement of counties might result in efficiency comparable to that of the state and at the same time preserve at least a part of the desirable qualities of local self government.

In attempting to reach the ideal arrangement of counties in Tennessee the writer will be guided, in the main, by three criteria. In the first place, a sufficiently large population and area should be grouped together to make successful administration possible. In the second place, sufficient wealth should be concentrated in the new areas to enable such matters as care of the poor, education, health and road building to be carried on in a modern way. Equalization of tax rates should also be considered. In the third place, the political units of the state should be made to coincide as nearly as possible with the economic areas. Convenience for both citizens and administrative officials in getting to and from the county seat is another question that cannot be overlooked. Where more than one criterion

is set up compromises are necessary and an artistic piece of work is impossible. Any suggested reorganization will, therefore, be open to certain criticisms.

A history of the development of any organization will usually throw some light upon a solution. The same can be said of a comparative study. Therefore, a little space will be devoted to the creation of counties in the state and to a comparison of Tennessee counties with those of the other states in size and population.

Tennessee was admitted to the union in 1796. By 1799 it had eighteen counties. During the next decade twenty new ones were created. From 1810 to 1819 the number dropped to nine. The next two decades show fifteen and ten respectively. This increase was probably due to the increase in population, the desire for shorter distances to the county towns, and to the spirit of democracy that was sweeping the county. Between 1840 and 1870 only twelve new counties were created. The Constitution of 1870 made provision for the creation of certain small counties and as a result of this eleven new counties had been added by 1880. In 1917 two counties, Hamilton and James were consolidated. A recent attempt to consolidate Meigs County with Hamilton was defeated by Meigs County politicians.

The Constitution of 1796 made 625 square miles the minimum size for a county.¹ This was reduced to 350 by the Constitution of 1834,² while a further reduction to 275, with a number of exceptions, was made in 1870.³ The size of the counties created after 1870 is interesting. Their areas are as follows: Trousdale, 106 square miles; Lake, 122; Moore, 141; Hamblen, 158;

¹Art. 9, sec. 4.

²Art. 6, sec. 15.

³Constitution of 1870, art. 10, sec. 4.

Pickett, 162; Houston, 197; Unicoi, 201; Loudon, 219; Clay, 254; Crockett, 267; and Chester, 313. Only three of these counties have a population of over 15,000.¹ Four have an assessed wealth of over \$5,000,000.² Only three have towns of any size. Erwin, in Unicoi County, has a population of 3623; Lenoir City in Loudon County has 4470 inhabitants; while Morristown, in Hamblen County has 7310. Lenoir City, however, is not a county seat. Six of them have no town of over one thousand.³ The extent to which the creation of these new counties was the result of a demand to make political lines conform to economic is problematical. It should be remembered that at that time roads were poor and loafing around the courthouse was an important item in the political and social life of the average male citizen. "Going to town" was looked forward to with eagerness. Furthermore small towns often had good stores and offered trade opportunities far superior to what they offer at present. The chief motive, however, seems to have been the result of intense localism and a demand for a "square deal" rather than of economic development. The parts of the county distant from the county town, which did their trading in another county were continually complaining that the county was neglecting their interests. The creation of a new county seemed to be the best remedy. And why not? Could not a small county function as successfully in that day as a large one?

There were 3070 counties in the United States in 1928.⁴ The size of the average county was 985 square

¹Hamblen, Crockett and Loudon.

²Crockett, Hamblen, Lake and Loudon.

³Clay, Crockett, Lake, Moore, Houston and Pickett.

⁴Daily News Almanac, 1929.

miles. This is over twice the average Tennessee county which has only 438 square miles. In 1920¹ there were 639 counties in the United States of over 1000 square miles; 253 of over 2000 square miles, and 56 of over 5000. Although most of these large counties are in the west, Maine has one county of over 6000 square miles and an average of 1868, while Florida has one county of over 4000 square miles and an average of 1015.

The population of the average county in Massachusetts is 275,168; New York, 167,503; the United States, 34,443, while the average for Tennessee is only 25,661. That there are counties large in both population and area is indicated by the following: Los Angeles County, California, area, 4115, population, 936,445; Aristook County, Maine, area, 6453, population, 81,728; Saint Louis County, Minnesota, area, 6503, population 206,391.

In California, which is reputed to be one of the best governed states in the union, the area of the average county is 2683, while the average population is 59,083. If the number of counties in Tennessee should be reduced to thirteen as suggested in this chapter their size would certainly not be without precedent, though admittedly contrary to the general rule.

Counties in Tennessee vary widely in size, population and wealth. The median county presents a weak appearance for successful administration. The minimum looks well nigh impossible. An explanation of the wide variation in counties and the large number of poor ones can be found by a study of the physical features of the state. Tennessee is slightly over 100 miles in width. The distance, however, from the southwestern corner to the extreme northeastern tip of the state is nearly 500

¹United States Census, 1920.

TABLE XI

Variations in Tennessee Counties

	Maximum	Median	Minimum
Population.....	304,788	18,175	3,516
Area in Square Miles...	801	451	106
Density per Square Mile	434.95	43.03	12.00
Assessed Wealth.....	\$323,343,733	\$8,552,352	\$1,092,575
Per Capita Wealth.....	1,213	450	193

miles. Between the 6000 foot peaks of the Great Smokies and the Mississippi River one finds a variety of territory.

Starting at the eastern edge of the state one rapidly descends from the Great Smokies to the valley of East Tennessee. This valley is really a series of parallel valleys, fertile, well watered, rich in natural resources including water power, and it contains a number of good towns and cities, Knoxville and Chattanooga

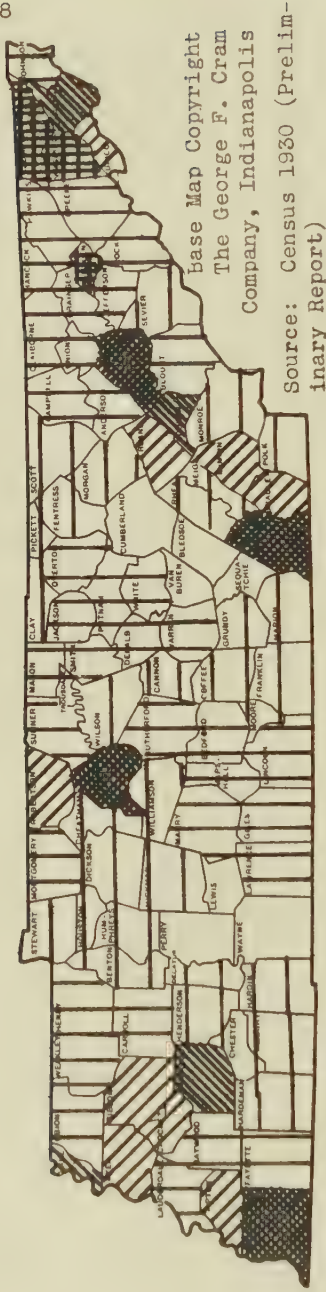
PHYSICAL FEATURES OF TENNESSEE



being the most outstanding. It is wide-awake and progressive and manufacturing establishments are rapidly entering it. The next two regions, the eastern highland rim and the Cumberland Plateau will be treated together. This section presents one of the problems of this study. The region is poor, lacking in transportation facilities and has no good towns.

Next comes the central basin. This fertile blue grass section, in some parts rivaling the famous Kentucky basin, rich in traditions, and for years self-satisfied, is beginning to wake up. Population is leaving the rural sections rapidly and some of the towns are becoming industrialized, though not to the extent of those in the eastern valley. Nashville, the capital of the state, is located in this basin. Further west comes the western highland rim, the narrow valley of the Tennessee River and a somewhat elevated region just west of the river. Last comes the West Tennessee Plain, a part of the Gulf Coastal Plain. One might also mention the Mississippi Bottom, a narrow strip of bottom land paralleling the river.

One, roughly speaking, notices three fertile regions separated by two barren sections. It is these barren sections, namely, the highland rim in the west and the Cumberland plateau and highland rim in the east, that present the greatest problems in county administration. The density of population per square mile is low. No county in either of these sections has a town of over four thousand inhabitants, while the majority of them do not have a town of one thousand population. Automobile registrations and circulation of daily newspapers are extremely low. Per capita wealth and wealth per square mile are likewise very low, while tax rates are relatively high, though it is generally thought that property is assessed at more nearly its true value in the poor counties than in the more wealthy. Not only

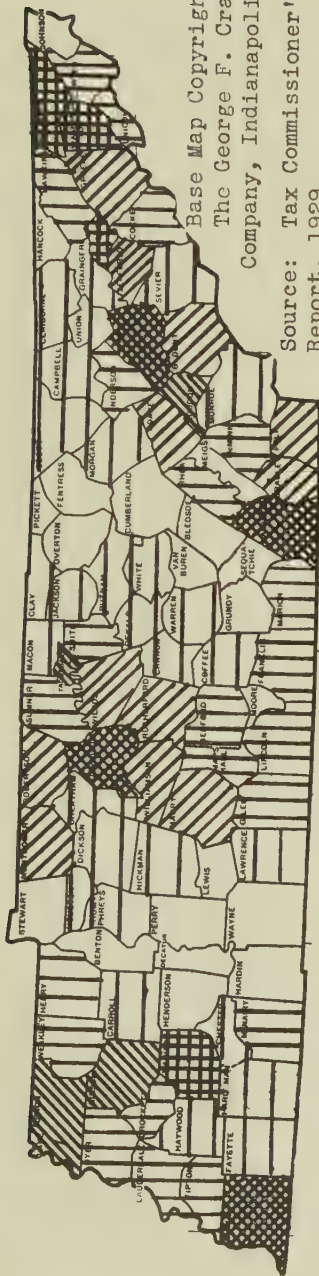


DENSITY PER SQUARE MILE



PASSENGER AUTOMOBILES, 1929

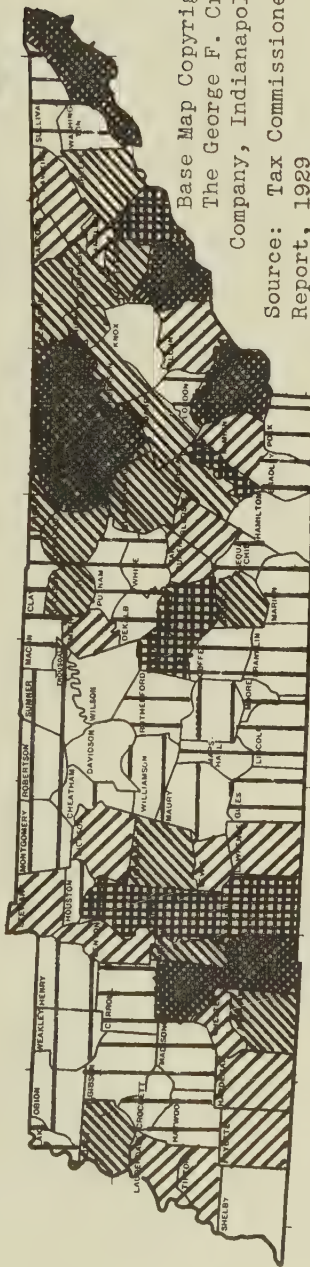
Key: One Dot for Each 100 Cars Except for Four Large Counties where one Dot Represents Each 250 cars.



WEALTH PER SQUARE MILE

Key: (in \$1000) 0-10 10-20 20-30 30-40 40-50 50-100 Over 250

Base Map Copyright
The George F. Cram
Company, Indianapolis
Source: Tax Commissioner's
Report, 1929



TAX RATES

Key: Under 1.25 1.25-1.49 1.50-1.74 1.75-1.99 2.00-2.24 2.25-2.49 2.50 up

Base Map Copyright
The George F. Cram
Company, Indianapolis
Source: Tax Commissioner's
Report, 1929

do these sections present a problem in county government at present, but, as will be shown later, they present the most difficult obstacle to a logical plan of county consolidation.

The problem of dividing the state into economic cells and of making the new counties coincide as nearly as possible with these economic units will now be taken up. Gras has clearly stated the question of economic cells and a few quotations will be given from his Introduction to Economic History. Speaking of the rise of the early town he states:

"In commenting on the town we must not forget the district dominated by it. The town was the nucleus, the surrounding territory with a radius of ten or twenty miles in which were located a score or more villages constituted the rest of the economic cell. From the standpoint of the town, the villagers were its customers and sources of supply. From the standpoint of the villages, the town was the center to which they went to dispose of their surplus products and to add to their supplies..."¹

In discussing metropolitan areas and the criteria for determining such regions he says:

"It would be worth while to determine satisfactorily what a metropolis really is. If satisfactory figures were available, this could be done. The population of a metropolis would be large, as compared with other cities in the district. This comparative advantage, however, would be suggestive, not final. The metropolis would have a relatively large number of workers engaged in wholesaling, and relatively few in manufacture when compared with other large cities in the district. And there would be lack of any

¹p. 107.

marked dependence on a neighboring center for trade and transportation. A city in which such conditions prevailed would at least be in the third phase of its development. If statistics proved that its loans to the surrounding area were larger (especially its discounts of commercial paper), then it would be classed as a fully developed (in function), metropolitan center. Or we may put it this way; that city is a full-fledged metropolis when most kinds of products of the districts concentrate in it for trade as well as for transit. Where these products are paid for by wares that radiate from it; and where the necessary financial transactions involved in this exchange are provided by it... A much more difficult task than that of discovering the metropolitan centers is outlining their areas. This sometimes proves difficult even in political states; it is much more so in case of economic units. Often when political boundaries are decided upon, they are maintained as purely arbitrary marks of sovereignty. Metropolitan boundaries cannot thus be made hard and fast. They keep shifting with conditions, and the land on the confines of two contiguous areas is debatable territory. For one purpose it may belong to one metropolis, for a different purpose to another. The reality of the dependence of the area decreases as you go from the metropolis; that is the essence of the whole matter."¹

Although Gras was writing of metropolises such as Chicago or Saint Louis, the same line of argument

¹Ibid., pp. 294-295.

can be followed in dividing Tennessee into counties on the basis of economic development.

That the counties of the state today do not coincide with the economic units of the state is obvious. Neither are the leading towns of a section always county seats. The 1930 census shows seventeen county seats with a population of less than 500 inhabitants; nineteen between 500 and 1000; twenty-one between 1000 and 2000, a total of fifty-seven county towns under 2000. On the other hand, there are fifteen towns of over two thousand inhabitants that are not county seats. In eighteen counties there are one or more towns larger than the county seat.

Another situation demanding a rearrangement of political areas is that caused by the present policy of road construction. The state highway act of 1919 reads in part as follows: "Be it further enacted that the State Highway Commission is given power to proceed to designate main traveled roads with a view of connecting all county seats, and also to designate other main traveled roads, which are deemed of sufficient importance to be included in the general highway plan of the state..."¹ The result of this policy is that many small county seats have five or six state roads while much larger towns that are not county seats have often not over two or three state roads. There is certainly a definite relationship between road building and economic growth and any plan for a system of roads should take into consideration the trade centers of the state. It would be far better to have, first, the trunk line roads connecting with other states; second, roads radiating from the cities and larger towns and covering the territory served by such cities and towns; and third, a

¹Ch. 149, sec. 7.

system of cross and connecting roads. Politics, however, still plays an important part in the location of roads and the county seat "gang" is still a power to be reckoned with.

TABLE XII

Some Counties Where the Largest Town is Not
the County Seat

County	Population of County Seat	Population of Larger Towns
Sullivan... Blountville	224	Bristol 12,013 Kingsport 11,908
Washington. Jonesboro	1,024	Johnson City 25,073
Roane..... Kingston	826	Harriman 4,586 Rockwood 3,882
Grundy..... Altamont	104	Tracy City 2,669
Dickson.... Charlotte	200	Dickson 2,901
Loudon..... Loudon	2,518	Lenoir City 4,470
Campbell... Jacksboro	830	LaFollette 2,636 Jellico 1,500
Weakley.... Dresden	1,047	Martin 3,288
Gibson..... Trenton	2,751	Humboldt 4,602
Coffee..... Manchester	1,227	Tullahoma 4,029

In deciding upon the chief towns in the state and their dependent areas a number of difficult problems arise. In the first place the state has four cities of over 100,000 population, namely, Memphis in Shelby County, Nashville in Davidson County, Chattanooga in Hamilton County, and Knoxville in Knox County. Next comes Johnson City with approximately twenty-five thousand.

The result is that the four large cities over-shadow the smaller cities and larger towns.

In the second place state boundaries materially interfere with the remaking of counties along economic lines. Memphis is the trading center for West Tennessee, over half of Mississippi and a large part of Arkansas. Chattanooga draws much trade from northern Georgia and some from Alabama. Bristol is divided into almost equal parts by the Tennessee-Virginia line. Moreover, certain Tennessee counties look to towns outside of the state for business relations. McNairy and Hardin Counties come under the economic influence of Corinth, Mississippi to a greater extent than any nearby Tennessee town. Wayne and Lawrence Counties look to Florence, Alabama. A part of Giles County belongs to Albany-Decatur, Alabama. Part of Lincoln County trades with Huntsville, Alabama. Claibourne County and perhaps parts of others in the same region belong to Middlesboro, Kentucky. The four northwestern counties, Lake, Obion, Weakley and Henry, trade to a certain extent with Cairo, Illinois and Paducah, Kentucky. Were it not for state lines the task before us would be greatly simplified, since these very regions offer some of the most difficult problems.

Another difficulty is that East Tennessee and parts of Middle Tennessee are becoming industrialized and population is shifting rapidly. A realignment of counties calls for a little guessing as to what will be the situation within a few years. Notwithstanding these difficulties an attempt will now be made to locate the towns in the state around which counties should be constructed and to define their boundaries.

Some of the more important factors considered in determining the outstanding cities and towns in the state were, population, bank deposits, highways, bus lines, railways, institutions of higher learning,

wholesale and retail establishments, and circulation of daily and weekly newspapers.

The four large cities will, of course, be used as county seats under any scheme of reorganization. The same is true of Johnson City and of Jackson. Each has a population of over 20,000; is well situated; has large bank deposits; is a trade center and has excellent transportation facilities.

The next two towns in size, Bristol and Kingsport, must be left out of further consideration as county seats. Bristol is on the line between Tennessee and Virginia. Half of the region it serves is in another state. Furthermore it is near Johnson City and is fast being over-shadowed by this rapidly growing city. Kingsport, situated near the state boundary, is a manufacturing town less than thirty years old. Industrial towns usually are not well qualified as county seats. In the first place they do not have large bank reserves; transportation facilities, excepting freight lines, are not good; they have few wholesale and retail stores and the population fluctuates rapidly.

Clarksville and Cleveland are both towns of over nine thousand population. The former is a trade center for at least two adjoining counties. It is used as the county seat of a new county. Cleveland, however, is not used due to its proximity to Chattanooga. Furthermore its transportation facilities are none too good and its trade area is to a great degree confined to its own county. Dyersburg, Paris and Murfreesboro are rapidly growing towns. Each has a population of over eight thousand. All stand relatively high in bank deposits and in transportation facilities. Murfreesboro is a wholesale and retail town of some importance. Although the other two towns are not outstanding as trade centers, they dominate their regions to the exclusion

TABLE XIII

Population, Bank Deposits and Transportation Facilities
of Cities and Towns of Over 5000 Inhabitants

City or Town ^a	Population ^b 1930	Per Cent Increase	Bank ^c Deposits	Bus ^d Lines	Railways ^d
Johnson City....	25,073	101.5	\$5499400	7	5
Jackson*.....	22,118	17.3	7180870	6	8
Bristol ^e	12,013	49.3	7098880	3	2
Kingsport.....	11,908	109.2	2013380	3	2
Clarksville*....	9,229	13.8	3480350	6	4
Cleveland*.....	9,120	39.8	2635510	3	3
Dyersburg*.....	8,730	35.5	2600010	6	4
Paris*.....	8,246	74.5	2557350	3	4
Murfreesboro*...	8,046	49.9	3250000	7	2
Elizabethton*...	8,044	192.6	1302690	5	4
Columbia*.....	7,878	42.6	2763353	5	4
Morristown*.....	7,310	24.3	2051200	4	4
Union City*.....	5,865	32.9	1618190	4	3
Springfield*....	5,627	45.8	1500000	3	2
Greenville*.....	5,543	46.8	2751490	4	2
Shelbyville*....	5,500	88.9	1851320	6	1
Athens*.....	5,367	108.0	1396750	3	3
Lebanon*.....	5,304	29.9	2000000	4	3
Alcoa ^f	5,263	56.7			
Cookeville* ^g	3,725	55.5	1119160	4	2
McMinnville*....	3,897	38.5	2583860	6	2
Tullahoma.....	4,029	15.5	1073890	4	3

a. Data for the four large cities not given.

b. Census 1930, Preliminary Report.

c. Rand-McNally, Bankers' Directory, 1929.

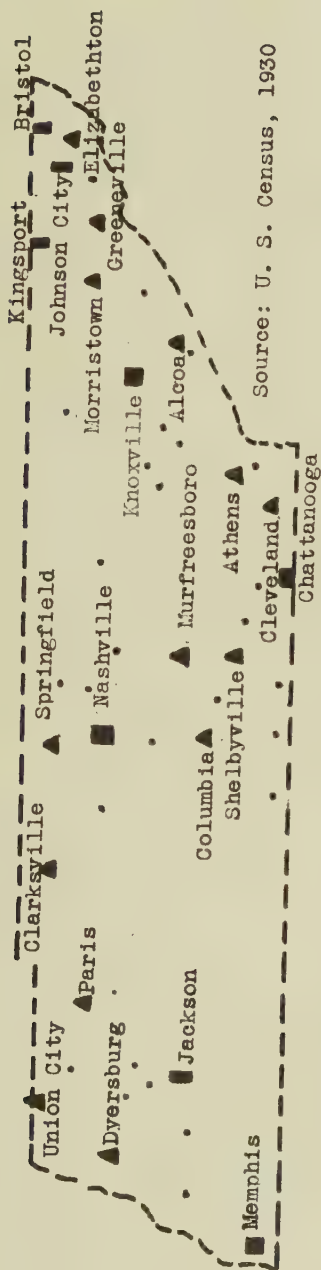
d. Each outlet is counted for busses and railways. A through route is counted as two roads. Biennial Report of Railway and Public Utilities Commission, 1930.

e. For Tennessee side only except bank deposits.

f. A suburb of Maryville.

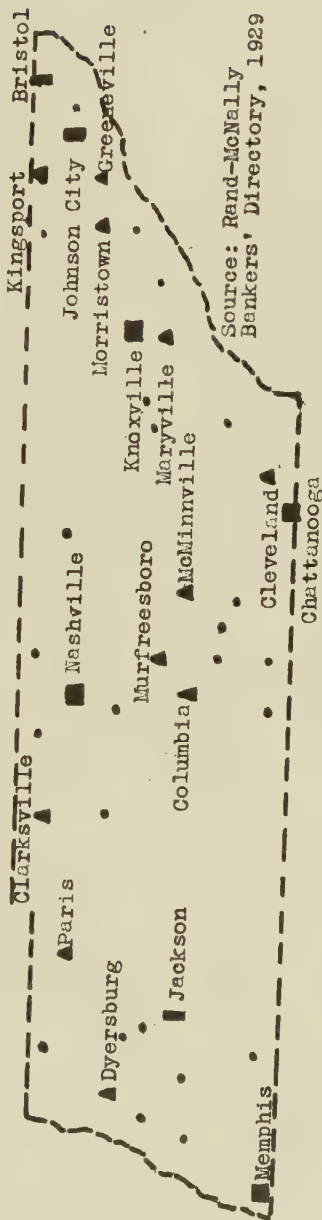
g. Cookeville, McMinnville and Tullahoma each has a population of less than 5000 but are suggested as possible county seats.

(*) Indicates county seats.



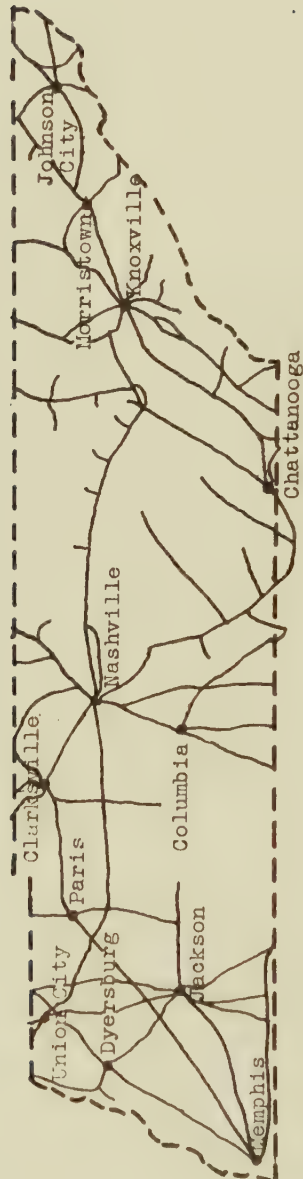
POPULATION

Key: Over 100,000 ■ 10,000-30,000 ▲ 5,000-10,000 ▲ 2,500-5,000 ●

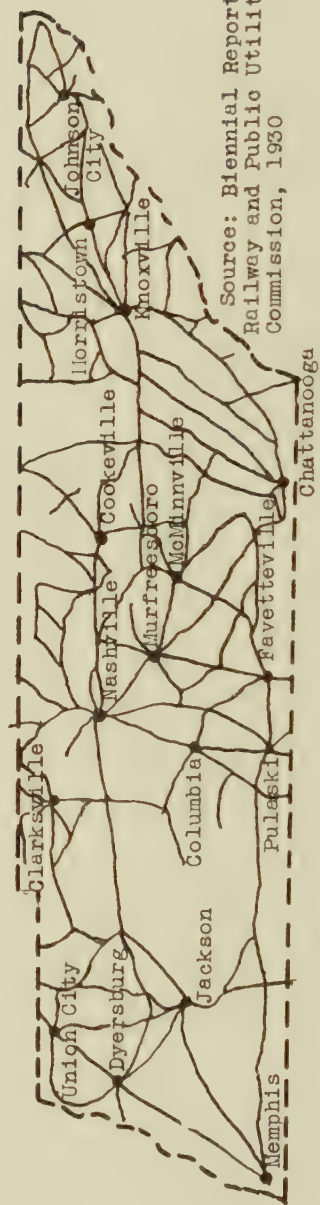


BANK DEPOSITS

Key: Over \$50,000,000 ■ 5,000,000-10,000,000 ▲ 2,000,000-5,000,000 ▲ Over 1,000,000 ●



RAILWAYS



Source: Biennial Report of
Railway and Public Utilities
Commission, 1930

BUS LINES

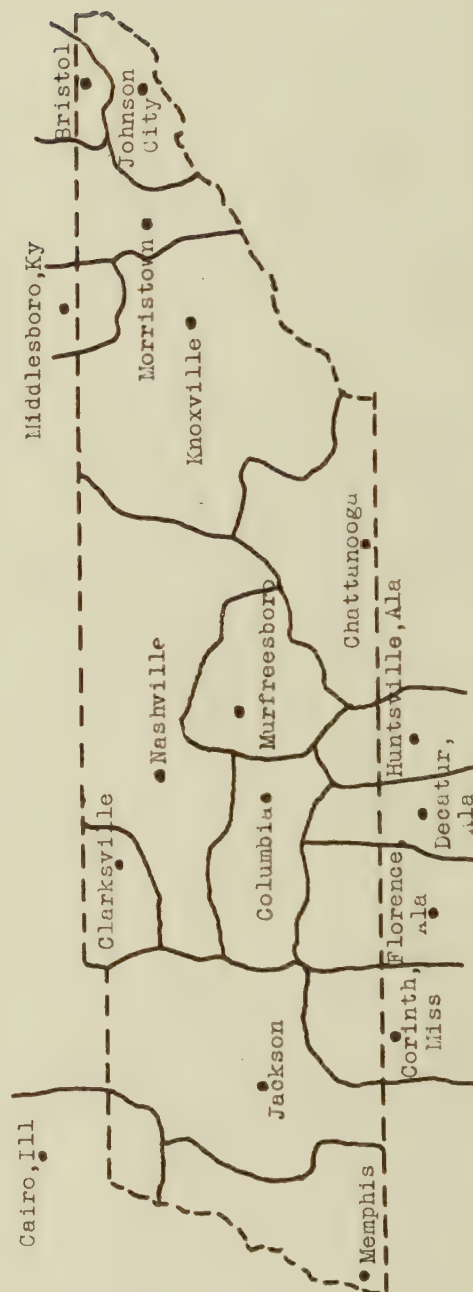
of all other towns with the possible exception of Union City. This last mentioned town has less than six thousand inhabitants and is situated near the Kentucky line. It is suggested, however, as a county seat in an alternative plan. Elizabethton has a population of over eight thousand and made a gain of 192 per cent during the last ten years. It is not used as a county seat since it is an industrial town less than ten miles from Johnson City.

Columbia and Morristown are important transportation centers and their influence in banking and trade extend far beyond the boundaries of their respective counties. Each has a population of over seven thousand. Both are considered as sufficiently important to be used as county seats in the reorganization plan. None of the other towns of over five thousand population exert any marked influence outside of their counties. Cookeville and McMinnville, each with less than five thousand people, probably have more influence on adjoining counties than any other towns in the state, excepting, of course, the towns already discussed. Tullahoma and Harriman draw trade from counties other than those in which they are situated but this is due to the fact that they are located near the borders of their respective counties rather than to the fact that they are outstanding trade centers.

Cookeville, notwithstanding its size, is used as the seat of a new county. No other solution seemed possible on account of the distance of this region from any other outstanding town. Cookeville, however, is clearly the leading town of the so-called upper Cumberland region. It had a growth of fifty-five per cent during the last decade and is a transportation center of some importance.

CONSUMER TRADE AREAS

(This map, according to the author, is based upon population, geographical characteristics, sources of wealth, transportation and trade outlets)



Source: Paul W. Stewart, Market Data Handbook of United States (1929)

Either McMinnville or Tullahoma might be used in place of Murfreesboro. Both are inferior in population, banking facilities and as trade centers. The only advantage of such a substitution would be the reduction of the distance to Chattanooga from the western part of its county. The use of Harriman and Athens as county seats for new areas would somewhat reduce distances to Knoxville and Chattanooga but would result in decided losses in all other respects.

The preliminary reports for the 1930 census indicate a remarkable growth for towns above five thousand population. On the other hand, towns below five thousand show gains only slightly above the average for the state. This appears to justify the conclusion that, wherever possible, towns under five thousand should be avoided as centers around which new counties should be constructed.

TABLE XIV

Per Cent Increase in Towns of the State Classified
According to Population, 1920-1930

Class	Number of Towns	Number that Lost Pop- ulation	Total Pop- ulation 1930	Total Pop- ulation 1920	Per Cent Gain
Over 100,000	4	0	613,898	415,606	52.04
10,000-30,000	4	0	71,112	45,041	57.88
5,000-10,000	15	0	105,072	70,299	49.46
3,000- 5,000	20	1	74,740	62,801	19.01
2,000- 3,000	11	4	25,959	22,977	12.97
1,000- 2,000 ^a	39	10	52,853	46,064	14.15
500- 1,000	43	10	30,802	26,992	14.11

a. There were a few towns below two thousand that were not reported in the preliminary census report.

The next step was to work out the areas that logically belong to each town chosen as a seat of county government. The same factors were considered that were used in determining the county seats of the new counties. Other things being equal, a city of large population and wealth would be assigned a greater area than a smaller town. Transportation systems were carefully considered to insure as much ease as possible in reaching the county seat. Much weight was given to the wholesale grocery territories as outlined by J. W. Millard in his Atlas of Wholesale Grocery Territories, and to retail and consumer trade areas as outlined by Paul W. Stewart in Market Data Handbook of United States. The areas served by daily and weekly newspapers were considered where such data were available. In addition to the above sources a questionnaire was addressed to chambers of commerce in the chief cities and towns asking what counties their town served in a business and social way and what were their chief rivals.

The question now arises, To what extent do the new counties conform to the criteria set up in the beginning of the chapter?

In the first place, is there a sufficient amount of population and wealth placed in each new area to insure a scientific organization and to result in the county successfully doing those duties required of it? In round numbers, what population and wealth are sufficient to answer the question just asked? Clearly the four large counties of the state, with population of over 150,000 and wealth of over \$150,000,000 are sufficiently large. But what of a county the size of Rutherford with about thirty-two thousand inhabitants and approximately twenty-two million dollars in taxable wealth? Assuming that the courthouse offices were reorganized and the proper department created, in place

of the various boards and commissions, would there be a sufficient amount of work to result in an efficient system? A larger volume of business than the county now has would surely result in savings. Moreover, certain professional men, as the superintendent of education or road engineers or perhaps health officers, could care for a larger area.

TABLE XV

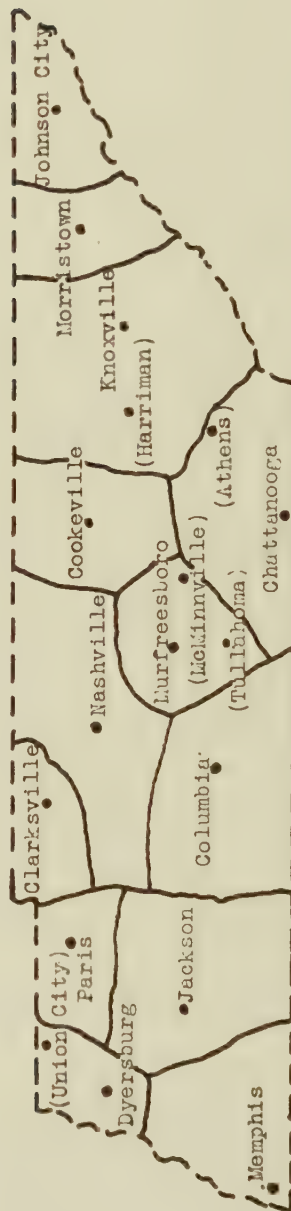
Thirteen New Counties Under Consolidation Plan

County	Popula- tion	Area	Assessed Wealth	Density	Per Capita Wealth	Tax Rate
Memphis.....	432,851	3522	\$373,205,269	122.9	\$866	1.09
Knoxville...	414,575	6136	266,601,060	67.6	643	1.45
Nashville...	400,280	4725	371,845,259	84.7	928	1.18
Chattanooga.	307,048	4455	243,953,924	69.9	794	1.36
Jackson.....	214,729	4378	96,231,723	49.1	448	1.72
Johnson City	185,286	2222	83,913,666	83.4	452	1.82
Columbia....	164,910	4878	84,233,404	33.8	510	1.66
Cookeville..	127,145	3675	37,266,931	34.6	293	1.84
Murfreesboro	101,613	2403	52,550,838	42.3	517	1.69
Morristown..	72,205	1925	31,408,405	55.8	434	2.05
Dyersburg...	71,013	1174	45,973,211	60.5	647	1.67
Paris.....	66,974	1662	35,345,145	40.3	527	1.43
Clarksville..	49,693	1162	23,742,300	42.7	477	1.40
Tullahoma ^a ..	129,440	3619	59,103,924	35.8	456	1.70

a. Tullahoma is offered as a substitute plan for Murfreesboro.

The smallest county in the new plan has approximately 50,000 people. There are four new counties with less than 100,000. Since split counties, however, were not considered in Table XV all of these smaller counties actually would contain from ten to twenty per cent

THIRTEEN NEW COUNTIES UNDER CONSOLIDATION PLAN



The following modifications of the above plan might be made. A small county could be created around Union City, or Dyersburg and Paris could be combined with Union City as the county seat. Clarksville could be consolidated with Nashville. Part of Murfreesboro County could be added to Nashville and a county established with either Tullahoma or McMinville as the seat of government. Small counties around Athens and Harriman might be advisable. Morristown could be divided between Knoxville and Johnson City.

more people and wealth. The smallest would then have about twice the population of Rutherford. This should result in a moderately efficient administrative organization. A minimum of 100,000, however, would be much more desirable.

In wealth, the smallest county in the new plan has less than twenty-four million dollars, slightly more than Rutherford. How far short does Rutherford fall in the question of wealth? The schools of this county stand relatively high, though there is undoubtedly room for improvement. Little complaint is now heard of roads. Health is also well cared for, though much of the credit is due to funds from without the state, and county health work was in a very unsatisfactory condition before the coming of the health unit founded by the Commonwealth Fund. Public welfare work and care of the poor could be very materially improved. While this county is considerably superior to the poorer counties to the east a larger amount of wealth would be desirable. The writer believes that fifty million dollars would be a reasonable sum. Four counties in the new plan fall under this amount.¹

The only remedy for these counties small in population and wealth is to add them to adjoining counties and this would violate the other criteria set up.

The question of distances to and from the county seat will now be examined. It will be treated under three heads. First, What is a reasonable distance over which administrative officials can exercise suitable supervision in such matters as road building, schools, health demonstration work, or county farm work? Second, What distance will not be a burden to the public in

¹Dyersburg, with part of Gibson and several other counties not shown in Table XV, has well beyond \$50,000,000.

transacting business at the county seat; and third, What is the largest area that will not be inconsistent with the principles of local self government? If the preservation of local self government is one of the chief reasons for retaining the county, the area should be sufficiently small to enable the people to feel a certain amount of social unity.

A day's journey has long been an important period of time in the experience of man. People usually do not consider a trip a burden where they can eat breakfast at home, take the journey and get back in time for supper. But it is irksome to be forced to stay out over night. The average county is about twenty miles square. This would make the average distance from the remote parts of the county to the county town about fourteen miles on an air line. In some of the larger counties where the seat of government is not near the center of the county the distance is over twenty-five miles.¹

Travel by horseback or by buggy or wagon, typical when the counties were laid off, will average from four to eight miles an hour; less than that in bad weather. Automobiles can travel with ease at thirty miles an hour. This would make thirty miles today about the equal of six or eight thirty years ago. Fifty or sixty miles from the county town for administrative purposes would not be unreasonable and would not violate the day's journey idea.

The action of the state highway department in dividing the state into administrative districts should be indicative of what distance is reasonable for administrative officers in the discharge of their duties. The state has been divided into twenty-three districts for purposes of construction and maintenance, and into twelve regions for patrol purposes.

¹Shelby or Hamilton, for example.

The next question is, What is a reasonable distance to expect people to travel in dealing with officials at the county seat? The same argument that has just been given will apply to a certain extent. There are other time savers in addition to the automobile that are conducive to greater areas for counties. One is the rural route. A great deal of business with the county can now be transacted by mail. The county could easily send out statements as do business houses, and taxes could be paid by check. Since the advent of the mail order house most people have a check account at a bank or know how to pay bills in Chicago with money orders. The telephone is another modern device not to be overlooked.

The political subdivisions of the county might help to solve the question of distances to and from the county seat. The present civil district has about ceased to function and should be abolished. The present counties might be changed into districts in the reorganization plan. What would be better, in all probability, would be the creation of new civil districts around each town of any importance. In other words, the county could be divided into districts according to the same principles that were used in dividing the state into counties. In these districts the banks might perform certain duties for the county, as the collection of taxes. In other cases city officials might be deputized to perform acts in the name of the county. In counties containing large towns in addition to the county seat, especially where such towns were situated in remote sections of the county, a county office with a deputy in charge might be opened.

With the automobile and other modern conveniences a distance of thirty miles from the county seat should

not be a burden upon the public. In some cases fifty or sixty miles probably would not be.

The proper size unit to best stimulate local self government will probably never be known. The question at base is a social one. Over what area do people mingle in social intercourse? How far do they go for visits, baseball games, fairs and the like? Formerly they did not cover the entire county. Today joint meetings of all of the high schools in a county at 8:00 P.M. are common and no one is kept out unreasonably late. Twenty-five miles or further for a dinner invitation or card party is common today. To drive to several adjoining county seats on Sunday afternoon is a weekly affair for many. And the distance traveled in such matters is rapidly increasing. The newspaper is also contributing its part along with the automobile. Under modern conditions an area with a thirty or forty mile radius and dependent upon a central trade town or city should have sufficient cohesion, socially, to be the basis of a unit for the preservation of the concept of local self government.

From the above discussion of distances which the writer admits to be highly seasoned with speculation, fifty miles will be placed as the maximum distance there should be from the county seat to the remote parts of the county. Thirty miles would probably be more desirable.

To what extent do the new counties conform to this distance? Naturally the small counties which are low in population and wealth conform admirably well to the above standard, while those counties that satisfy best the population and wealth requirements violate the distance standard.

The greatest distances are found in Knoxville, Chattanooga, Nashville, Columbia and Jackson counties. There are points in all five counties over sixty miles

on an air line and over seventy-five by highway from the county seat. In the case of the first three counties these great distances would not be such a burden, because of the excellent transportation facilities that large cities possess and the even more important fact that these distant and poor regions would make such great gains by being a part of a county having a large city.

The really serious cases are the southeastern region of Jackson County and the southwestern region of Columbia. Here transportation is not good and the county seats, especially Columbia, do not have a large amount of wealth. This, however, is the only thing that can be done in view of the fact that state lines must be respected. If the adjoining regions of these two counties were combined into a new county, the population and wealth would be very low, and if some small town in the center of the region were chosen for a county seat, when people went to the county town, they would be going away from more advanced regions to more backward ones. Probably the best solution of the situation in these two counties would be the location of branch offices of the county with a deputy in charge in towns of the more remote sections.

Another serious situation is the Cookeville region. Due to the great distance between Nashville and Knoxville, 216 miles by rail, this region, although poor, is made into a county. Cookeville, however, is a much better town than is to be found in the corresponding poor region in the west, and, in a way, it really does serve this region in many respects.

The proposition resolves itself into a Scylla and Charybdis affair. In attempting to place sufficient wealth and population in a given area, distance to the county seat becomes annoying, and in avoiding long

distances wealth and population are reduced to a point where efficient government is endangered.

In addition to reduced costs and more efficient service, there are other possibilities that might result from larger areas. It seems to be a reasonable assumption that better qualified men would be attracted by the larger salaries and the increased prestige that a larger unit of government usually has to offer. This should be the case especially with regard to the members of the legislative body of the county. If the membership were reduced to a number somewhere between three and nine, the county could afford to pay a salary that would attract men of ability. Furthermore, it should be quite an honor to represent a county of one hundred thousand people especially when the legislative body is small enough for every member to be well known throughout the region.

Another point to consider is the effect that larger units would have upon politicians and rings. It is a well known political axiom that the influence of politicians and bosses varies inversely with the ability and prestige of those in authority. Larger counties might, therefore, be a means of reducing the power of local gangs. On the other hand, it might simply result in fewer but bigger gangs.

Still another result that might be hoped for is better legislation within the county. The amount of legislating that a county should be allowed to do is a debatable question. It has been briefly referred to in Chapter III. One reason for rigidly limiting the power of the present county court is the lack of ability of the members. A small and intelligent county legislature might help to settle the question to what extent a county should be allowed to pass laws. This should result in placing more responsibility at home, which, in turn, should result in more interest on the part of the public.

CHAPTER IX

COUNTY GOVERNMENT AND PUBLIC OPINION

Political scientists have long been accused of living in an atmosphere far above the common man, and this, notwithstanding the fact that the common man is supposed to be the cornerstone of democracy. Scholars in this field have published books advancing theories and recommending improvements only to find their ideas ignored by the masses. They have overlooked the fact that a mere book seldom is sufficient to bring about an improvement in government. In order to successfully put into operation a new political idea or improvement it is necessary either to carry out a systematic process of educating the people or to do some political manoeuvring. Political scientists have, with few exceptions, either overlooked this side of the question or have treated it with contempt. The writer, therefore, is of the opinion that this study would not be complete without, at least, some reference to the state of public opinion toward county government. Such an investigation should be of value in attempting to put into operation some of the remedies suggested for the improvement of county government.

This chapter is divided into two parts. The first deals with public opinion and the county. The questionnaire and the personal interview were used as means of collecting data. The second part of the chapter briefly discusses the present facilities for enlightening the public on county problems, such as

newspapers, schools and information given out by the county itself.

For obtaining information relating to public opinion the following questionnaire was used.

QUESTIONNAIRE

Age_____Sex_____Occupation_____County_____

- 1x. In general, are you satisfied with the government of your county?_____ (Yes, no, do not know).
2. Are you satisfied with the county court as a legislative and administrative body for your county? _____ (Yes, no, do not know).
3. What do you consider the chief defects of the county court?
4. Do you favor a small commission of from about five to nine members in place of the county court?_____ (Yes, no, do not know).
5. Are you satisfied with the present organization of the administrative and clerical offices, as register, clerks of the court, trustee, etc?_____ (Yes, no, do not know).
6. What do you consider the chief defects of the organization and management of these offices?
- 7x. Would you favor a plan for consolidating certain of the above offices as the clerk and master and the circuit court clerk, or the county court clerk and register, etc.?_____
- 8x. Do you think the county is too small a unit for successful administration? _____ (Yes, no, do not know).
- 9x. Would you favor a plan for grouping adjoining counties into larger areas? _____ (Yes, no, do not know).

10. Are you sufficiently informed about the county manager plan to express an opinion about it?_____ (Yes, no, do not know).
11. Do you think such a plan would work in Tennessee? _____(Yes, no, do not know).

Copies of the above questionnaire were placed in the hands of 196 members of civic clubs in Middle Tennessee. Fifty-four answers were returned. Two hundred and fifty copies were sent to farmers who had children enrolled at the Middle Tennessee State Teachers College. Forty-two answers were received. Fifty-five copies were placed in the hands of members of the faculty of the Teachers College and school superintendents and principals in attendance at that institution. An attempt was made to avoid answers from those familiar with this study. Thirty-two answers were received. Fifteen copies were distributed by the writer to persons whom he had known for years and their answers carefully studied.

One can readily see that the group selected was above the average for the state in social and economic standing. Yet only 136 answers were received from a total of 516 questionnaires. This would indicate a lack of interest or of information or perhaps both. One civic club secretary wrote "I don't think many of the members knew what it was all about." More than one student who returned the questionnaire unanswered reported that his father had done his best to answer the questions but finally had to give up. The questions, however, do not look so formidable and full instructions and explanations accompanied them.

Table XVI, showing the answers to the questionnaire, indicates considerable dissatisfaction with county government. The county court received the greatest amount of criticism. As would be expected, few were

familiar with the county manager plan. On the other hand, a surprisingly large number favored the consolidation of counties into larger areas. Many of the answers were more or less contradictory and clearly indicated a lack of understanding of county problems.

TABLE XVI
ANSWERS TO QUESTIONNAIRE

Question	Total	Yes	No	Blank
Satisfied with County Government?.....	101 ^a	34	55	12
Per Cent		33.7	54.5	11.9
Satisfied with County Court?	136 ^a	41	86	9
Per Cent		30.2	63.2	6.9
Favor a Small Commission?....	136	78	35	23
Per Cent		57.4	25.7	16.9
Satisfied with Administrative Organization?.....	136	69	49	18
Per Cent		50.6	36.0	13.3
Favor Consolidation of Certain Offices?.....	101	56	27	18
Per Cent		55.5	26.8	17.8
Favor County Consolidation?..	101	37	51	13
Per Cent		36.6	50.5	12.9
Informed about County Manager?	136	27	90	19
Per Cent		19.9	66.2	14.0
Do You Think it Would Work in Tennessee?.....	136	13	17	106
Per Cent		9.5	12.5	78.0

a. After a number of copies of the questionnaire had been sent out several questions relating to county consolidations were added. This accounts for 136 answers to some questions and 101 to others.

Although farmers are as dissatisfied with county government as any other group they are more adverse to change. Only thirty-three per cent favored a small commission in place of the county court, while the per cent of business men favoring such a change was seventy-five and the per cent of teachers sixty-nine. Only twenty per cent of the farmers favored consolidation of counties, while forty per cent of the business men and sixty-one per cent of the teachers were favorable to such a change.

Criticisms of the county court were asked for in the questionnaire. Seventy-two answered that the members of the court were not qualified; forty-two stated that there were too many members in the court; eighteen answered "too much politics;" while ten gave localism and logrolling as outstanding evils. "Lack of business methods," "dishonesty," "salary too small," "lack of leadership," and other answers were occasionally given. Business men and teachers, in general, objected to the size of the court. Farmers, however, did not seem to object to this feature. On the other hand, it was the farmers who suggested dishonesty as a chief criticism of the court.

Criticisms were also asked for the administrative and clerical offices. Very few answers were received indicating that those questioned were less familiar with, or less critical of these offices than the county court which levies taxes. "Too many offices" were listed by twenty-five; "too expensive" by thirteen; "poor qualifications" by eleven; and "lack of system" by eleven. Farmers were more critical of these officials than either business men or teachers.

Since considerable difficulty was experienced in getting the questionnaires answered and furthermore since many of the answers indicated a lack of knowledge

of county affairs, the writer decided to place a limited number of the questions in the hands of people whom he had known for a number of years in order to get their reaction to them. For this purpose fifteen people in the community where he was reared were used. This group represented eight farmers and seven business or professional men. All were above the average in social and economic standing, several of them being the most wealthy men of the community. Six had attended college. The remainder had had at least an elementary education. Eight returned the sheets with the questions answered.

Three of the eight answers showed considerable thought in regard to county problems. The others indicated a very limited, and in some cases poor, knowledge of the county. Three persons, when they returned the sheets, stated that they had filled them out but that they would have to admit that they knew very little about county problems and had done considerable guessing. One man, a wealthy retired merchant, said that he had given the question some attention but that he did not feel qualified to answer them. A retired physician took the same view, adding, however, that he was "pretty well posted on town and school matters."

The writer's conclusions, based upon the questionnaires and personal interviews will now be briefly summarized. The "average" man knows very little about county government and cares less. Occasionally one finds a citizen who has given some thought to county affairs. Very few, however, have taken a wide view of the whole problem. Most of them have thought on only one phase of the question. They have worked out solutions for what they conceive to be the chief defect and think that the application of their solution would remedy the entire system. For example, quite a number thought that a reduction of the size of the county court

would solve all county problems. Others thought that a county judge instead of a county chairman was the solution. Others who directed their criticisms toward the large number of clerical officials at the courthouse thought that the consolidation of certain of these offices was all that was necessary. The great majority, however, pin their faith on the election of better qualified individuals.

The facilities for enlightening the people in regard to county affairs will now be taken up. The newspaper will be discussed first.

In order to determine the extent to which newspapers informed the public concerning the county and its government a study was made of eight important dailies in Tennessee for a two weeks' period from November 1 to November 14, 1929. The papers subscribed to were the The Memphis Commercial Appeal, The Memphis Evening Appeal, The Memphis Press Scimitar, The Nashville Tennessean, Nashville Banner, Knoxville Journal, Knoxville News Sentinel, Chattanooga Times and the Chattanooga News. So many copies of the Chattanooga News were missing that it was omitted from the study. All of the papers except two have Sunday editions.

The method used was to classify the news by topics using the column inch as the unit of measurement. All of the papers used eight columns to the page and all pages were practically the same size. The size of the print, however, varied, though this factor was not taken into consideration. A few of the papers did not follow the eight column page in case of editorials. Due allowance was made for this.

The total number of column inches for each paper for the entire period was obtained first. The next step was to find the amount of general news for each. In collecting the general news, advertisements, classified news, such as sports or society, and undated

articles on such topics as "spring" or "hay fever" were omitted. The total number of column inches for all papers during the entire period was 429,872 inches. The total amount of general news was 63,667 column inches, or 14.8 per cent of the total space.

The general news was divided into foreign, national, state and local. In determining under which of the four above categories a given piece of news should be classed, the substance of the article was given most weight but the source was also considered. Where news belonged about equally to two classes it was divided between them. The next step was to note all news of a political nature and classify it under national political news, state political news, city political news and county political news. For example, news dealing with Congress or the President was classed as national political news. County political news included all news which dealt with the county as a political organization.

TABLE XVII

Column Inches of Political News, National, State, City
and County, for Eight Tennessee Dailies for a
Two Week Period

Paper	National	State	City	County
Memphis Commercial Appeal...	855	6	108	0
Nashville Banner.....	736	140	236	176
Nashville Tennessean.....	794	102	249	79
Chattanooga Times.....	1214	81	18	63
Knoxville News Sentinel.....	621	52	109	39
Memphis Evening Appeal.....	399	27	13	0
Knoxville Journal.....	452	47	135	29
Memphis Press Scimitar.....	229	38	14	21
Total.....	5300	490	882	407

Certain kinds of news relating to the courts caused trouble. A divorce or murder case of a scandalous nature covering the front page could hardly be classed as political. An article on a meeting of the state supreme court, however, is clearly political news.

TABLE XVIII

Per Cent of General News Devoted to National,
State, City and County Politics

Paper	National	State	City	County
Memphis Commercial Appeal...	8.20	.06	1.04	.00
Nashville Banner.....	7.55	1.44	2.49	1.81
Nashville Tennessean.....	10.50	1.35	3.29	1.04
Chattanooga Times.....	12.45	.83	.18	.64
Knoxville News Sentinel.....	8.60	.72	1.51	.54
Memphis Evening Appeal.....	6.10	.41	.20	.00
Knoxville Journal.....	6.50	.65	1.95	.42
Memphis Press Scimitar.....	4.10	.68	.25	.38
Average.....	8.30	.77	1.38	.64

If the per cent for all papers is figured on the basis of total political news rather than total general news, the national political news comprises 74.90 per cent of such news; the state, 6.90; the city, 12.50; and the county, 5.75.

The above tables show that during the period under consideration county political affairs received less consideration than any of the other three classes. An important point to consider, however, is the fact that political news comes in spurts. This is especially true when legislative bodies are in session or are about to

come together. Elections also cause considerable interest. During the period under consideration some elections for United States Congress were taking place and Congress was preparing to assemble. This in part accounts for the large amount of space given to the national government. Politics in state and county, however, were relatively quiet.

In looking down the column devoted to the county, one notices in Table XVII that two of the Memphis papers do not mention the county and its government while the Nashville Banner gives 176 inches to this subject. In Table XVIII only two papers, both of Nashville, devote as much as one per cent of their general news to the county politics. The explanation of the space in the Nashville papers lies in the fact that elections for county offices took place in Davidson County during the second week of November.

The writer has been interested in county government in Tennessee for the last five years. During this time he recalls only one article in Nashville newspapers outlining a definite plan for improving the structure of county government.¹ Of course, many articles appeared from time to time during the period advocating the election of better men to county offices.

The conclusion of the writer is that Tennessee newspapers give relatively less news to the county than to any other governmental unit, and that such news as is given centers chiefly around elections for county offices.

Schools, in addition to newspapers, are usually looked upon as sources of information for problems of government. But here as in the case of the newspapers

¹This article was on county consolidation by Mr. Avent Childress, State Superintendent of Taxation.

one finds the county neglected to a great degree. The adopted textbook in Civics for the elementary schools of the state is Hughes, Elementary Community Civics.¹ Problems of American Democracy by the same author is extensively used in the high schools. While these books are admirable in many respects and represent a decided advance over the old civics texts, they devote little space to county problems. In the elementary text fifty-one lines, or less than a page and half, are devoted to the county. The material is of a most general nature and is chiefly descriptive.

The high school text shows some improvement over that for the elementary school. In Chapter XXII entitled "Governing Local Communities Capable," there are three sections which deal in whole or in part with the county. The first section entitled "Problems Right At Home," introduces the county along with other subdivisions of the state. The section entitled "Systems of Local Government," briefly describes the types of local government in the United States. The third section is entitled "The County." It consists of forty lines, all except ten being descriptive. These ten lines are quoted below:

"It is almost impossible to expect businesslike government to result from the choice of so many officials by popular vote. In fact, the county has been called the jungle of American politics because of the confusion so often existing in its administration. One proposed remedy is the reduction of the number of elected officers, and the installation of a county manager,

¹R. O. Hughes, Elementary Community Civics, Allyn and Bacon, New York, 1922.

²R. O. Hughes, Problems of American Democracy, Allyn and Bacon, New York, 1922.

³Pp. 346, 387, 290.

on the principle described for city government in Section 254. Maryland counties have virtually a commission form of government, with from 3 to 5 elected officials possessing practically all legislative and executive power. They have the privilege of adopting a county manager system if they wish."

The above quotation is the only suggestion in either of these commonly used texts that indicates that county government is not functioning smoothly.

The colleges show some improvement over the elementary and high schools. The three most outstanding institutions of higher learning in the state are George Peabody College for Teachers, the University of Tennessee, and Vanderbilt University. The Peabody catalogue for 1930¹ lists the following courses which might throw some light on the county and its government.

402. American Government.

Section I.....

Section II, State and Local Government.

(2).

Topics: Formation and admission of states: powers, obligations, and rights of the states in federal union; development of state constitutions; organization of state and local government; the relation of government to citizenship problems in the teaching of citizenship; the relation of government to the social studies.

405. Municipal Government. (4)

Topics: A comparative study of modern municipalities in the United States and the principal countries of Europe; their social significance; their governmental structure;

¹New Series, vol. xix, no. 4 (Nashville, April 1930) p. 118.

their relation to the state; the experience with government by council, mayor, commission, and manager; methods of popular participation; the organization, methods employed, policies and problems in the fields of finance; health and sanitation; police and fire protection; education; city planning; public utilities; charities and correction; recreations."

According to the numbering system used in this catalogue these courses are designed primarily for the senior college. The course on municipal government, while not specifically mentioning the county, should throw some light on county problems.

The University of Tennessee catalogue for 1930 outlines the following course:¹

"322. Political Science (Citizenship).

A study of state, county and municipal governments and problems in the United States; the constitution of Tennessee. Junior and senior. Winter quarter. L. A. Three hours."

The following courses are copied from the Vanderbilt bulletin for 1930.²

I. Problems of Citizenship.- An orientation course for freshmen. Sophomores, juniors and seniors not admitted.

II. Local Government.- This course is divided into three terms as follows:

(1) State government and administration with emphasis on state powers and the principles of administration; (2) county government and administration with a cursory examination of the types of county government, and a detailed study

¹Vol. 35, No. 3 (Knoxville, May, 1930), p. 118.

²Vol. XXX, No. 3 (Nashville, March, 1930), p. 86.

of county administration and the remedies for the county problem; and (3) municipal government and administration with special emphasis on the principles and methods of administration. Some attempt is made to investigate local governmental problems. Open to students who have had Political Science 9. Not given, 1930-31."

The extent to which these courses actually present county problems depends to a great degree upon the instructor. A course in local government can be a very live affair or it can be very dull. It is very probable that some of these courses are still taught out of a textbook in a formal way. Moreover, most of them are intended for upper classmen.

A theoretical discussion of the amount of time that should be devoted to local government in the schools of the state will not be entered into. It is sufficient to point out the fact that the courses in the schools intended for the bulk of the future voters offer little information which is of direct value in solving the problems of county government in Tennessee. This is a good example of a practice common among educators of shooting into the air in the hopes of hitting a stray bird.

Another way in which the public could be educated to the needs of the county is a scheme of reporting comparable to that used by some of the more progressive cities. The weakness of the county in this respect has already been outlined in Chapter V.

The average Tennessee voter gets most of his education in county government from discussions around the courthouse, on the streets and in various other public places.

No doubt the reader has been wondering just what actual steps should be taken in Tennessee for improving

county government. Reforms are brought about in a number of ways. Sometimes public opinion becomes so strong on a given issue that unwilling legislators or executives are forced to act. Examples can be found in various prohibition or child labor laws. But, as a rule, before the public can be thoroughly aroused over a question it must, at least, be suggestive of some abstract concept as morality, liberty, democracy, or the like. It would be difficult indeed to fire the public over such a cold-blooded question as more efficiency in county government. Though the public should be considered on any plan for improving the county situation, and various types of propaganda resorted to for influencing public opinion, other approaches must be found.

Another way to initiate reform is to get those in authority back of the movement and take a chance on the people following, or at least not raising any serious objections. The reorganization of the state administrative departments in Tennessee was effected almost single-handed by Governor Peay. For four years thereafter its fate was hanging in the balances and it was a foremost issue in two close gubernatorial elections. Could a new system of county government be instituted in a similar way? At present such a procedure would encounter very serious opposition. There are ninety-five counties in the state. The county politicians would oppose such a move and they are powerful in state politics. The state authorities would think twice before joining battle with this group. The caution of the state department of finance and taxation in supervising county accounting shows this. It is common knowledge that the state legislature is largely made up of county politicians, and the many justices of the peace holding seats in that body could hardly be expected to vote themselves out of one of their jobs.

A third procedure is to get the "county gang," which has been more or less criticized in this study, in one or more progressive counties interested in a reorganization. Then, by means of special legislation, which also has not been looked upon with much respect in the preceding pages, reorganize the government of such counties as far as is consistent with the constitution. In this way a beginning could be made which might lead to a more general action and pave the way for complete reform.

It might be added here that considerable improvement could be made notwithstanding the present constitution. In the first place, the number of members of the county court could be reduced to five. Article 6, section 15, of the constitution reads in part as follows: "The different counties of this state shall be laid off, as the general assembly may direct, into districts of convenient size, so that the whole number in each county shall not be more than twenty-five, or four for every one hundred square miles."

It then goes on to say that there shall be two justices of the peace in each district, except districts including a county town, which shall have three justices. Unless the Supreme Court were too particular about the word "convenient" a county could be divided into two districts. This would mean a court of only five members. If a county were divided into four districts, which action should satisfy the "convenient districts" requirement of the constitution, the size of the court would be nine, a reasonable number.

The second major change that can be made at present is to greatly increase the administrative powers of the county judge and to place him in active control of the reorganized departments, as roads, health and the like. Just how far one could go in this direction

without conflicting with the constitution is a problem. This is especially true with regard to the constitutional offices discussed in Chapter VII. Perhaps the most effective change here would be, by a general act of the legislature, to give to the county court the right to regulate the salaries of these officials. Paying them what they deserve would not only be a great saving to the county but would go far toward reducing these offices to what they should be.

In conclusion the following procedure is recommended. In the first place, since all people are not alike and have reached different stages of advancement, every possible line of procedure should be capitalized. A series of syndicated articles in the leading dailies of the state by some one familiar with the problem should be of value. The state department of education might be induced to broadcast in the public schools a pamphlet or some mimeographed sheets on county problems and suggested remedies without advocating any particular remedy. The county manager or a consolidation plan might be the basis of a series of debates in the schools. These are by no means the only steps that might be taken to arouse public opinion.

At the same time a carefully worked out reorganization plan for one or more counties should be sold to the leaders of certain progressive counties as an experiment. After duly advertising the success of these experiments, assuming that they were successful, it is likely that other counties would follow suit and soon the way should be cleared for a constitutional amendment and a complete reorganization.

CHAPTER X

CONCLUSIONS

All of the evils of county government pictured by the writers in the last quarter of a century seem to have centered in Tennessee. Here one finds an obsolete system inherited from colonial North Carolina, which in turn received it from England. The Tennessee county, therefore, resembles in many respects the English county of the time of Columbus.

The improvements in business organization and administration of the last century have not affected the county to any appreciable degree. The only developments in this direction worthy of note are the reduction of the judicial powers of the county court and the mild suggestion of an executive head in the person of the county judge. On the other hand, certain changes made since Tennessee became a state have been detrimental to the introduction of improved administrative methods. Examples are writing the framework of county government into the constitution and the popular election of a large number of non-policy forming officials.

The relation of the county to the state is far from satisfactory. The vast amount of special legislation for counties takes up the time of the legislature, and takes responsibility away from the people of the county and places it in the hands of the local delegation to the legislature, which is usually controlled by a local ring. It is recommended that legislation affecting the counties be in the form of general laws and that each county be given the privilege of electing to

come under the operation of such laws either by action of the legislative body of the county or by popular referendum, depending upon the nature of the act. Such a procedure would place responsibility squarely upon the voters of the county, would reduce the power of local politicians, and, in general, would be more democratic and more conducive to a vigorous local self-government. On the other hand, due to corruption and inefficiency, more stringent state supervision over county administrative affairs should be exercised. This is especially desirable in financial matters in view of the present condition of county finances.

The chief criticism of county government is that it is headless. The county court is supposed to exercise some of the duties of a chief executive but it has certain inherent defects which make it impossible for it to function successfully in such a capacity. In the first place, it is too large. In the second place, its members are not properly qualified and many courts are almost totally devoid of leadership from within. This naturally results in control by outsiders, usually a so-called gang. Lucky indeed is the county that has a progressive gang to direct its affairs.

The county judge or chairman has some of the earmarks of a chief executive. He examines the books of all county officials and audits county accounts. He does not, however, have active control over the various county departments and has no power of appointment and removal. He is often poorly qualified and neglects to use even those powers which he has. This is especially true in counties which have a chairman. If more thorough reforms are not effected in the immediate future, it would be well for all counties to substitute the judge for the chairman.

Lack of a real executive and lack of leadership within the court is best shown in financial questions. County finances are in a very unsatisfactory state. No systematic budgetary procedure is followed in the great majority of the counties. Deficits at the close of the year are common. Taking care of these deficits is a problem too big for the average county court. Various types of borrowing and shifting of accounts are resorted to while the floating indebtedness of the county increases. A bond issue is finally resorted to. This does not always settle the matter for deficits often continue and a second bond issue is not uncommon. It will take a general overhauling of county government to completely remedy this evil.

A second important criticism grows out of the exaggerated position of certain constitutional officers who have offices in the courthouse, as the clerks of the courts, the trustee, the register and perhaps others. The duties of these officials are primarily clerical. In an ordinary business corporation such officials would be hired and fired by a manager or superintendent without much ceremony. Such is not the case in county government. These officers have a term of office fixed by the constitution and a second term is a cardinal principle of Tennessee democracy. In some counties they draw a salary greater than that received by the governor of the state or by members of the Supreme Court. Their election is often a heated affair. Cripples and bankrupts run well. This results in poorly qualified officials and along with lack of proper supervision is the cause of very inefficient discharge of duties. Only a constitutional amendment can remedy this situation, although it would help some if the county court were given authority to fix the salaries of these offices.

Another problem is that presented by the large number of counties. Many of them are too poor to successfully do those things usually required of a county. Few of them are sufficiently large to have a sufficient amount of business at the county seat to result in a scientific organization even if it were possible at present to reorganize the structure of county government.

In order to completely solve the problem of county government two important steps are necessary. One is the consolidation of the counties into much larger areas than now exist. The other is the abolition of constitutional restrictions upon the structure of county government and the creation of a well integrated system. It might be called a county manager plan, or if this title is offensive to politicians and the public, old county names might be retained and the county manager could easily be called judge or chairman.

To effect such radical changes would require considerable effort on the part of those interested in better government in view of the present state of mind of the public and the certain opposition of politicians. The public at present shows little interest in county problems. Considerable stimulation by means of a wide variety of devices would be necessary. Since some important improvements, however, can be made without a constitutional amendment, those friendly to reform might persuade the authorities in certain progressive counties to experiment with a small county court and a county judge with increased administrative authority. These steps, if at all successful, should pave the way for a complete reorganization.

BIBLIOGRAPHY

- N. W. Ayer and Son, American Newspaper Annual and Directory (Philadelphia: 1929).
- Bureau of Municipal Research, New York, County Government in Virginia (Richmond: D. Bottom, 1928).
- Walter Clark, State Records of North Carolina, 20 vols. (Goldsboro: Nash., 1906).
- Daily News Almanac (Chicago, 1930).
- John A. Fairlie and Charles H. Kneier, County Government and Administration (New York: Century, 1930).
- George Peabody College, Bulletin (Nashville, April, 1930).
- R. O. Hughes, Elementary Community Civics (New York: Allyn and Bacon, 1922).
- R. O. Hughes, Problems of American Democracy (New York: Allyn and Bacon, 1922).
- J. W. Millard, Atlas of Wholesale Grocery Territories (Washington: Government Printing Office, 1927).
- Newspapers:
- Chattanooga News (1929).
- Chattanooga Times (1929).
- Knoxville Journal (1929).
- Knoxville News Sentinel (1929).
- Memphis Commercial Appeal (1929).
- Memphis Evening Appeal (1929).
- Memphis Press Scimitar (1929).
- Nashville Banner (1929).
- Nashville Tennessean (1929).
- Shelbyville Gazette (1929).
- Rand-McNally, Banker's Directory (Chicago: Rand-McNally, 1929).

- W. L. Sanders, Colonial Records of North Carolina, 10 vols. (Raleigh: P. M. Hale, 1886).
- Statistical Abstract of the United States (1926).
- The Statutes of the Realm, 10 vols. (1810-1824).
- Estelle M. Stewart, The Cost of American Almshouses (Washington: Bureau of Labor Statistics, Bulletin No. 386, 1925).
- Paul W. Stewart, Market Data Handbook of United States (Washington: Government Printing Office, 1929).
- Tennessee Departmental Reports:
- Commissioner of Finance and Taxation, Biennial Reports (1922-1928).
 - Committee to Investigate Assessments and Taxation, Report (1915).
 - Comptroller of the Treasury, Biennial Report (1928).
 - Department of Highways and Public Works, Road Condition Map of Tennessee (June, 1930).
 - Department of Institutions, Biennial Report (1928).
 - Railroad and Public Utilities Commission, Seventeenth Biennial Reports (1928-1930).
- Tennessee Statutes
- Acts 1821-1909.
 - Public Acts, 1911-1929.
 - Private Acts, 1911-1929.
 - Edward Scott, Laws of Tennessee, Knoxville: Heiskell and Brown, (1821).
 - Shannon's Code, 1896.
 - Shannon's Code, 6 vols., 1917.
 - Supplement to Shannon's Code of 1917, (1926).
- Tennessee Supreme Court Decisions.
- F. N. Thorpe, American Charters, Constitutions and Organic Law, 7 vols. (Washington: Government Printing Office, 1909).
- United States, Census (1920, 1930).

University of Tennessee, Record (Knoxville; May, 1930).
Vanderbilt University, Bulletin, (Nashville, March, 1930).

Paul W. Wager, County Government and Administration in North Carolina (Chapel Hill: The University of North Carolina Press, 1928).

Leonard D. White, Public Administration (New York: Mac-Millan, 1926).

W. F. Willoughby, Principles of Public Administration (Baltimore: Johns Hopkins Press, 1927).

